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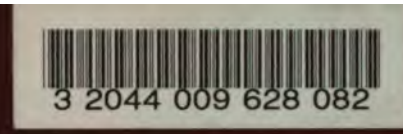
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Rufus Choate

THE WORKS

OF

RUFUS CHOATE

WITH A

MEMOIR OF HIS LIFE.

BY

SAMUEL GILMAN BROWN,

PROFESSOR IN DARTMOUTH COLLEGE.

Ἐν μύρτου κλαδὶ τὸ ξίφος ἐφόρει.

IN TWO VOLUMES.

VOL. I.

BOSTON:
LITTLE, BROWN AND COMPANY.
1862.

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To

The Memory of

LEMUEL SHAW, LL.D.

FOR THIRTY YEARS CHIEF JUSTICE OF THE SUPREME COURT OF MASSACHUSETTS,

THESE WORKS OF RUFUS CHOATE,

WITH THE MEMOIR OF HIS LIFE,

ARE RESPECTFULLY INSCRIBED.

PREFACE.

When first requested to prepare a sketch of the life of Mr. Choate, I was not ignorant of the difficulty of writing it so as to present a fair and complete portraiture—the traits of his character were so peculiar, its lights and shades so delicate, various, and evanescent. The difficulty has not grown less as I have proceeded with the work, and no one, I think, can be so well aware as I am, of its insufficiency.

It may seem singular that none of Mr. Choate's addresses to a jury are included in this collection of his speeches, — that the department of eloquence in which perhaps he gained his greatest fame, should here be unrepresented. In this disappointment, those by whom this selection has been made, certainly share. It was not until the very last, and after making a careful examination of every accessible report of his legal arguments, that they reluctantly came to the conclusion that no one remained which, considering the nature of the subject, or of the report itself, would do justice to the advocate, or very much gratify the reader.

As to Mr. Choate's political sentiments and action during the later years of his life, it did not seem necessary to do more than to give his opinions as they were honestly formed and frankly expressed. The time has not yet come for treating fully and with entire fairness the questions of those days. One still "walks on ashes thinly covering fires."

A word should perhaps be said with reference to the fragments of translations from Thucydides and Tacitus, which

close these volumes. They were prepared solely as a private exercise and for a personal pleasure and advantage. They were never revised, and are given precisely as found on loose scraps of paper, after Mr. Choate's decease. But they have struck me, as well as others upon whose better judgment I have relied, as affording examples of felicitous and full rendering of difficult authors, and as indicating something of the voluntary labors and scholarly discipline of an overtasked lawyer, who, amidst the unceasing and wearisome calls of an exacting profession, never forgot his early love of letters.

No one unacquainted with Mr. Choate's handwriting can understand the difficulty of preparing his manuscripts for the press. For performing so well this very perplexing labor, the public are chiefly indebted to Rufus Choate, Jr., and Edward Ellerton Pratt, Esqs.

With a singular and almost unaccountable indifference to fame, Mr. Choate took no pains to preserve his speeches. The manuscript of the lecture, — written at first with the most rapid pen, with abbreviations, erasures and interlineations, — had no sooner fulfilled its temporary purpose, than it was thrust among waste papers and forgotten. He had not the time, or could not bring himself to take the trouble to recall his lost orations or legal arguments. His lecture on the Romance of the Sea, one of the most beautiful and popular of his lectures, was lost or stolen in New York. He was solicited to rewrite it, and could doubtless, at any time for years afterward, have reproduced the whole —

> —— "apparell'd in more precious habit,
> More moving-delicate, and full of life,"

than at first, but other matters seemed to him of more importance, and the half promise with which he beguiled his friends, was never fulfilled.

When urged, as he frequently was, to prepare a volume of speeches for the press, he usually quieted the solicitor by seeming to accede to his request, or evaded him by some rare bit of pleasantry.

It is a matter of congratulation, then, that so much has been rescued from irretrievable loss. It has even been found necessary, in order not to overcrowd the volumes, to omit many lectures and speeches, which all who heard them would doubtless be glad to possess in a permanent form. Among these are several congressional and political speeches, his speech in the Massachusetts Convention on The Basis of Representation, and his lectures on The Influence of Great Cities, on The Mercantile Profession, on Macaulay, on Rogers, on Jefferson, Hamilton, and Burr, and an earlier lecture on Poland.

The engraving which accompanies this volume, from a photograph by Messrs. SOUTHWORTH & HAWES, is considered the best likeness which exists of Mr. Choate *in repose.* A very striking portrait by Mr. AMES,—the original of which is in Dartmouth College,—gives the orator *in action.* Besides these, Mr. BRACKETT has moulded a spirited head in plaster, and Mr. THOMAS BALL has sculptured one in marble, which for dignity, force and truthfulness, can hardly be surpassed.

While I have received aid from many sources, which I should be glad particularly to designate, I cannot help acknowledging my special obligation to the Members of the Bar, especially of Suffolk and of Essex, many of whom I have had occasion to consult, and from all have received every assistance possible without reserve or hesitation. I am also much indebted to the courtesy of Mr. EVERETT for kindly placing at my disposal books and manuscripts not easily accessible elsewhere, which were indispensable in preparing the sketch of Mr. Choate's life in Congress; and to EDWARD G. PARKER, Esq., for a free use of materials which he had collected in preparing his "Reminiscences."

The publication of these volumes, though ready for the press many months since, has been delayed by causes which will occur to every one. In the great peril of the Republic, what else could be thought of? What eloquence be heard but that of the civil war? But the counsels of the wise will acquire a deeper meaning, and the eloquence of patriotism be listened to with a readier acquiescence, when from the present tumult and strife, we shall emerge upon another era "bright and tranquil."

S. G. B.

HANOVER, N. H., *October* 13, 1862.

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ERRATA.

Page 77, 18th line from bottom, *read* 1789 for 1799.
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MEMOIR

OF

RUFUS CHOATE.

CHAPTER I.

1799–1830.

Birth of Rufus Choate — Ancestry — Boyhood — Account by his Brother — Studies — Characteristics — Enters College — Rank — Testimony of Classmates — Dartmouth College Case — Its Influence on his Choice of a Profession — Extract from Judge Perley's Eulogy — Enters Law School in Cambridge — Goes to Washington and Studies with Mr. Wirt — Death of his Brother Washington — Returns to Essex — Admission to the Bar — Testimony of Mr. Wirt — Opens an Office in South Danvers — Letter to James Marsh — Marriage — Success — Fidelity to Clients — Letter from Judge Shaw—Testimony of Hon. Asahel Huntington.

In the south-eastern part of the old town of Ipswich, Mass., on an island which rises in its centre to a considerable elevation and commands a view of the open ocean and the neighboring villages, Rufus Choate was born, as his father, with ancient precision, recorded the event in the Family Bible, "Tuesday, Oct. 1, 1799, at 3 o'clock, P. M." He was the second son, and the fourth of six children. The district was then called Chebacco: it has since been formed into a separate town bearing the name of Essex. The inhabitants, for the most part devoted to agriculture, were enterprising, frugal, thrifty, and intelligent. The earliest ancestor of Mr. Choate in this country was John Choate, who took the oath of allegiance in 1667. From him, the subject of this biographical sketch is of the fifth generation by direct descent. The family spread widely in Essex County, and several members of it attained to considerable distinction.[1]

[1] In 1741, John Choate, Esq., was a member of the House of Representatives for Ipswich, and was elected Speaker; but the election was negatived by Governor Belcher. He continued a prominent member of the House — his name appearing on many important committees — till 1761, when he was elected into the Board of Councillors, (who were then what *both* the Senate and Council now are in Massachusetts,) to which responsible position he was reëlected every successive year till 1766.

The paternal grandmother of Mr. Choate, whose maiden name was Mary Giddings, was a matron worthy of the best days of New England.[1] His father was David Choate, a man of uncommon intellectual endowments, of sound and independent judgment, a wise counsellor, sociable, sagacious, modest, keen, and witty. He was held in high estimation as a man of stability, unswerving integrity, and weight of character, and was often chosen to fill places of responsibility and trust.

On one occasion, as administrator on the estate of his uncle John Choate, he was obliged to go to Boston to look after a case in court. At the trial, the counsel upon whom he had relied failed to appear. Mr. Choate thereupon asked that the cause might be continued. On stating the matter as clearly as he could, the Judge, after a little consultation, said to him, "I think you understand the case, Mr. Choate, and we can manage it together. You had better conduct it yourself." Thus unexpectedly summoned to the bar, after some hesitation he called his witnesses, made his argument, and obtained a verdict.

There is a report, which seems to rest on good authority, that at the time of the ratification of the Federal Constitution in Massachusetts he wrote several articles for a Boston newspaper in favor of that measure, under the signature of "Farmer," some of which were currently ascribed to Theophilus Parsons, already an eminent lawyer, and afterwards Chief Justice of the State. Mr. Choate died in 1808, before his son had attained his ninth year.

The mother of Rufus was Miriam Foster, a quiet, sedate, but cheerful woman, dignified in manner, quick in perception, of strong sense and ready wit. Her son was said to resemble her in many characteristics of mind and person. She lived to see his success and enjoy his fame, and died in 1853, at the venerable age of eighty-one.

When his son was about six months old, Mr. David Choate removed from the island to the village on the mainland, about three miles distant, but still retained the old homestead.

[1] Her courage is indicated by an anecdote told of her, that in the War of the Revolution, when all the *men* left the island, driving to the uplands the herds of cattle which would otherwise have offered a tempting prize to the British cruisers, she, with her two small children, remained fearless upon the farm.

It had been in possession of the family for four generations, and for more than a hundred years, and is still owned by an older brother of Mr. Choate.[1] An arm of the sea flows pleasantly about it, and a little creek runs up to within twenty rods of the old dwelling, which stands on the hill-side, hardly changed from what it was sixty years since, of two stories, heavy-timbered, low-roomed, with beams across the ceiling, bare and weather-beaten, but with a cheerful southerly outlook towards the marshes, the sea, and the far-off rocky shore of Cape Ann.

The new residence still commanded a view of the ocean. The little village was the head of navigation for a species of fishing-craft much built there, known along the coast as "Chebacco boats." Frequent excursions to the old farm were, of course, necessary, and these little voyages down the river which forces its crooked way through the salt marshes, were generally made in a canoe dug out of a solid log. During the war of 1812, the English and American cruisers were frequently seen in the bay. On one occasion especially, the "Tenedos" and "Shannon," tall and beautiful, "sitting like two swans upon the water," were watched from the shore with great interest, and by none with more concentrated gaze than by the boy Rufus. All these circumstances, — the murmur of the sea which lulled him to sleep, the rage of the ocean in a storm, the white sails in the distant harbor, the boats which went out of the river and never returned, the stories of adventures and perils, — naturally tended to stimulate his imagination, to cherish that love of the sea which became almost a passion, and which so often shows itself in his speeches and writings. To the last, he thought that to be a sea-captain was "eminently respectable." Accounts of naval battles he read with the greatest eagerness, and many were the mimic contests on land to which they gave birth. "I well remember," says his brother, "his acting over certain parts of a sea-fight with other boys, he telling them what to do, how to load, at what to aim, not how to *strike* a flag, (that never seemed to come into the category,) but how to nail one to the mast, with orders to let it wave while he lived. Many of his chimney-corner sports had relation to either naval or

[1] Hon. David Choate.

land engagements. I remember that while he and Washington,[1] were waiting for the family to breakfast, dine, or sup, (that was the way the children were then taught to do,) one would have the dog and the other the cat, each holding it fast, and, at the signal, bringing them suddenly together in imitation of two hostile ships or armies, Rufus, in the mean time, repeating the story of a real or imagined fight with as much volubility as he ever afterwards used in court, and with such an arrangement of the plan of the fight as made all seem wonderfully real."

Scenes of military and naval life fastened strongly upon his imagination. He often said that nothing ever made a deeper impression upon his boyish mind than the burial of an officer with military honors, and the volleys fired over his grave. In August, 1813, he went to Salem to witness the ceremony of the reinterment of the bodies of Capt. James Lawrence and Lieut. Augustus C. Ludlow, who were killed on board the "Chesapeake," and were at first buried at Halifax. Although he could not hear Judge Story's Eulogy, he made his brother repeat to him all that he could remember of it. The opening sentence, "Welcome to their native shores be the remains of our departed heroes;" especially filled him with ecstasy. It is not surprising, then, that the dreams of his early ambition should have been of braving the perils of the sea, or commanding a man-of-war.

His constitution was vigorous, and in all the sports of boyhood he was more than a match for his companions, spending as many hours as any one upon the play-ground, and tiring out almost all his competitors by his activity and skill. In the necessary labor of the farm he was equally diligent and faithful. A man is now living with whom he once worked in laying a stone wall, and who thought it a pity that so strong and active a lad should be sent to college, but pardoned it, when really determined upon, because he worked so well.

An intense love of reading and of knowledge in general was early developed. Before he was six years old, he had devoured the "Pilgrim's Progress," and used afterwards to gather his companions and rehearse it to them from memory. Bunyan was always a great favorite. But a few years

[1] His younger brother.

before he died, he borrowed from his brother the old volume, with its quaint pictures and soiled pages, which brought back so much of his childhood. Another book, of a different kind, which he used to read with the greatest avidity was a worn and well-thumbed copy of the "Life of Maurice, Count Saxe," from which a year or two since, he repeated page after page, to the surprise and amusement of some of his family by whom a question had been started with reference to the battle of Fontenoy. "Marshal Saxe at the Opēra," (accenting the second syllable according to his boyish habit,) used long to be one of the playful phrases in use between himself and his children.

The village library of a few hundred volumes, containing such works as "Rollin's Ancient History," "Josephus," "Plutarch," "Telemachus," and "Hutchinson's History of Massachusetts," he had pretty nearly exhausted before he was ten years old. During all these early years the Bible was read and re-read with more than ordinary thoughtfulness, and early in the war of 1812, he made what he thought was the great discovery of an undoubted prophecy of Napoleon Bonaparte, in the Book of Daniel. He was, at the same time, an attentive and critical hearer of sermons, even if the minister was dull. "When about nine years old," says his brother, "he took us all by surprise one Sabbath noon, by saying 'Mr. —— (naming the preacher) had better mind what he says about James (the apostle,) *even* James,' repeating the words emphatically. The minister had been quoting Paul, and added, 'even James says, For what is your life?' The remark went to show us — the family — not only that he had attended to what had been said (which we had not done) but that he saw an objection to the comparison, *implied* at least, between the two apostles, both of whom were inspired, and consequently that the inspiration of James must have been as good as that of Paul, because of the same origin in both."

He was remarkable during his youth for the same sweetness of temper, and quick sense of the ludicrous, which he carried with him through life. He was easily persuaded to a particular course of conduct, by his mother or sisters, and could not bear to grieve them, and so in all differences between them, if he could not carry his point by good-natured

pleasantry, he would yield with the best grace in the world. By the same humor, he sometimes warded off reproof, even when justly merited. An older sister was once beginning to admonish him for something which he had done, which was clearly wrong. He saw it coming and was determined to break the force of it. While she was bestowing the rebuke with the earnestness which the offence seemed to deserve, happening to raise her eyes, she saw him standing with his right hand up by the side of his head, in the attitude of a person to whom an oath is administered, and with a face of extraordinary demureness and solemnity. The sight of him in this roguish position put an end at once to the lecture and to the feeling which prompted it. The loudest of laughs ended the scene.

In all boyish sports and studies, his companions were few: the most intimate of them all was his brother Washington, a little more than three years younger than himself. Although during his early youth neither of his parents were members of the church, the moral discipline of the family was careful and exact. A portion of the "Assembly's Catechism" was recited every Sabbath, and the lessons thus learned were so deeply engraven on his memory as never to be forgotten. On one occasion in later life, in commenting upon the testimony of a witness who professed his willingness to do any job that might offer on Sunday, just as he would on any other day, Mr. Choate repeated word for word, one of the long answers of that venerable symbol, on the import of the fourth commandment, and then turning to the Court, said, "May it please your Honor, my mother taught me this in my earliest childhood, and I trust I shall not forget it in my age."

Mr. Choate was favored in his childhood with some excellent friends beyond the circle of his own relatives. Among these was the now venerable Dr. R. D. Mussey, who commenced the practice of the profession in which he afterwards became so eminent, in Essex, and for several years resided in the family of Mr. David Choate. At the age of ten years, Rufus began the study of Latin, under the instruction of Dr. Thomas Sewall,[1] who had taken Dr. Mussey's place. He

[1] Dr. Sewall afterward married Mr. Choate's oldest sister, and subsequently removed to Washington, D. C., where he was long known as an eminent physician.

continued his studies for a few months, yearly, during the next six years, under the clergyman of the parish, Rev. Mr. Holt, or the teachers of the district school. Among these should be mentioned Rev. Dr. William Cogswell, who taught the school during the successive winters of his Junior and Senior years in college.

These opportunities, of course, afforded the young student a very imperfect discipline, but they served in some degree to stimulate his mind, while teaching him the necessity of self-reliance and independent exertion. Certain it is that with his poor chances he accomplished more than most others with the best. He meditated upon what he read, and treasured up the fruits in a retentive memory. His imagination even then pictured the scenes of ancient story, and transferred the fictions of Homer and Virgil to the shores of Essex. "There," said he, pointing out a rocky, cavernous knoll to his son-in-law, as they were riding a few years since from Ipswich to Essex, "there is the descent to Avernus." This habit of making the scenes of poetry and history real, of vivifying them through his imagination, was one which followed him through life, and contributed largely to his power as an orator. Something allied to this is that touch of human sympathy for inanimate objects, of which Dr. Adams speaks in his Funeral Address. When as a boy he drove his father's cow, "he has said that more than once, when he had thrown away his switch, he has returned to find it, and has carried it back, and thrown it under the tree from which he took it, for, he said, 'Perhaps there is, after all, some yearning of nature between them still.'"

By way of completing his preparation for college he was sent, in January, 1815, to the academy in Hampton, N. H., of which James Adams was then the principal. Here he remained till summer when he entered the Freshman class in Dartmouth College, near the close of his sixteenth year. His classmates remember him as a diffident, modest, beautiful boy, the youngest in the class with two exceptions, singularly attractive in person and manner, of a delicate frame, with dark curling hair, a fresh, ruddy complexion, a beautifully ingenuous countenance, his movements marked with a natural grace and vivacity, and his mind from the first betraying the spirit of a scholar.

"There he brought," says one of his eulogists,[1] "a mind burning with a thirst for knowledge, which death alone had power to quench, kindled with aspirations lofty, but as yet undefined and vague, and stocked with an amount of general information quite remarkable for his years; a physical constitution somewhat yielding and pliant, of great nervous sensibility, but equalled by few for endurance and elastic strength. He came pure from every taint of vice, generous, enthusiastic, established in good principles, good habits, and good health." The necessary imperfection of his fitting for college, and his own modesty, prevented, in a measure, the full recognition of his ability during the first term of his residence at Dartmouth. But the deficiency, if it were one, was soon supplied. He acquired knqwledge with extraordinary rapidity. His memory was very retentive, the command of his faculties, and his power of concentration perfect. "His perception of the truths of a new lesson," says one of his classmates, "and their connection and relation to other truths already familiar to him, was so intuitive and rapid, that I have yet to learn the first man who could study a new subject in company with him, and not prove a clog and an incumbrance." At the same time he was a most diligent and faithful student.

"I entered the class," writes another member of it,[1] "in the spring of Freshman year, when its members had already joined the societies and found their affinities. . . . I was acquainted with some members of the class before I entered college, and remember making natural inquiries in the winter vacation, about the associates I should find in it. Several were named as having taken high rank during the fall term, but Choate was not mentioned. I was the more struck therefore, at the first recitation, as I watched each successive voice with the keen curiosity of a new-comer, when Choate got up, and in those clear musical tones put Livy's Latin into such exquisitely fit and sweet English, as I had not dreamed of, and in comparison with which all the other construing of that morning seemed the roughest of unlicked babble. After the first

[1] Hon. Ira Perley, lately Chief Justice of the Supreme Court of New Hampshire, in a eulogy pronounced at Dartmouth College, July 25, 1860.

[2] E. C. Tracy, for many years editor of the "Vermont Chronicle."

tence or two, I had no doubt who was the first classical olar among us, or who had the best command of English. as on one side of the room and he on the other, and I re- nber as if but yesterday, his fresh, personal beauty, and all graceful charm of modest, deferential look and tone that ompanied the honeyed words. . . . The impression that first words made upon me was peculiar; and nothing, lit- lly nothing, while in college or since, ever came from him listurb the affectionate admiration, with which in the old re- tion-room, in the presence of Tutor Bond, I first heard his ce, his words, his sentences, — all, even then, so exquisite heir expression of genius and scholarly accomplishments. ave always felt my connection with that class as a peculiar city of my college life; and to us all Choate's companion- p through the four years was a blessing and an honor."

What was thus begun, he carried through to the end. As ly as his Sophomore year he entered upon a course of rough, systematic study, not with the object of excelling classmates, but to satisfy the ideal of excellence which d his own mind. He never, while in college, mingled very ely in the sports of the play-ground, and yet was never a luse. His door was always open to any one who called to him. But his example did much to set the standard of olarship, and to impart a noble and generous spirit to the ss and the college.

The years that Mr. Choate spent at Dartmouth were ong the most critical in the history of that institution. A iculty of many years' standing, between President John heelock and the Board of Trustees, culminated in 1815 his deposition from office, and the election of another esident in his place. The question soon became involved the politics of the State, and the legislature, in June, 16, passed an act incorporating an adverse institution, led the Dartmouth University, and granting to it the seal, libraries, the buildings, and the revenues of the college. w officers were appointed, and a small number of students lected. The trustees denied the constitutional power of the islature to pass such an act, and carried the case before the al tribunals. In November, 1817, the Supreme Court of State decided against them. The college was without

buildings, without libraries, without apparatus, without resources. The recitations were held wherever rooms could be found in the village. A President, two Professors, and one or two Tutors, performed the whole duty of instruction and government. The public mind was profoundly agitated with hopes and fears, in which the students largely shared. From the decision of the State Court, an appeal was taken to the Supreme Court at Washington. A question of local interest spread itself to dimensions of national importance. Jeremiah Mason, Jeremiah Smith, Daniel Webster, and Francis Hopkinson were counsel for the College. John Holmes and William Wirt, for the University. The minds of the students were stimulated by the unusual circumstances, and probably there never was a time in the history of the college, when a spirit of study, of order, and of fidelity to every duty, more thoroughly pervaded the whole body, than when there were hardly any means of enforcing obedience, and the very existence of the institution depended upon the doubtful decision of a legal question. The contest itself imparted a sense of reality and practicalness to the college life, and a desire of high attainment and honorable action seemed to be the pervading spirit of the community of students. It was during this period that Mr. Choate's mind was, by several circumstances, decisively turned to the law as a profession. He probably heard Judge Smith, Mr. Mason, and Mr. Webster in their defence of the college at Exeter in September, 1817. "He certainly heard Webster in the celebrated trial of the Kennistons at Ipswich, in the autumn of the same year." In the college, there existed at this time two rival literary societies, The Social Friends and The United Fraternity, each possessing a small but valuable library. On the plea of preserving these libraries, some of the officers of the University determined to remove them from the college building. Not having the keys, the door of The Social Friends was broken in by a number of persons, headed and directed by an officer of the University, and preparations made for carrying away the books. They had hardly entered before the students of both societies, exasperated at the unexpected attack, rallied for a defence of their property. The band which had entered the room was at once imprisoned in it, and finally disarmed and conducted to

their several homes. Mr. Choate was then librarian of the society whose property was invaded, and as a result of the proceedings in which he bore some share, found himself with several fellow-students, summoned the next day before a pliant justice of the peace, who bound them all over to take their trial before a superior court on the charge of riot. Their accusers were also arraigned before another justice, and bound over to answer to the same tribunal. To the court they went at Haverhill. The most eminent lawyers in the State then practised in Grafton County. The case never came to a hearing, the Grand Jury finding no bill against the parties, but the appearance of the court, — Chief Justice Richardson, Judge Bell, and Judge Woodbury upon the bench, — and the eminent legal ability of the bar, where were such lawyers as George Sullivan, Jeremiah Mason, Jeremiah Smith, Richard Fletcher, Ichabod Bartlett, Ezekiel Webster, and Joseph Bell, might be presumed to impress a mind much less susceptible of such influences than was Mr. Choate's.

In the mean time, Mr. Webster made his great argument for the college, on the 10th of March, 1818. All these circumstances, and perhaps especially the laurels won by Mr. Webster in that effort, directed the young student's attention to the advantages, the attractions, and the grandeur of that profession in which he was destined to attain such eminence. "The victory of Miltiades would not suffer him to sleep." "The Dartmouth College case," says a distinguished statesman,[1] "was almost the first legal controversy which brought into view the relations of the judiciary and the bar to the great interests of American learning. The questions involved in it were generally thought vitally important to the cause of education in its highest and most liberal aspects, and the discussion of them established a harmony and excited a sympathy between two vocations before thought almost antagonistic, — the academic and the forensic, — which was not without favorable results to both of them."

While Mr. Choate was a member of college, there were in the classes a larger number of students than usual distinguished for breadth and thoroughness of scholarship, as they have been since for honorable positions in literature and in

[1] Hon. George P. Marsh.

society. With some of these he formed friendships which terminated only with their lives. By all who knew him then he was ever remembered for his warm and generous sensibilities, his open, balmy kindness, as well as for his influence over the younger students, and his readiness to help them. After having decided upon his profession, his desire was to become a national man. The Country, the Union of the States, the Fathers of the Republic, — these words were frequently in his mouth. General literature, which before had been an end with him, now became but the means for the accomplishment of the purpose to which he had consecrated his life. All pursuits, whether of elegant learning or of graver non-professional knowledge, were made but adjuncts and auxiliaries. Nor was it in scholarship more than in the power of using his acquisitions that he excelled. In the classics, in history, and general literature, he read far beyond the requirements of the curriculum, but knowledge never outran the power of thought. His intellectual growth was sound and healthful. Chief Justice Perley says of him (in his eulogy), with reference to this and some kindred points: —

"It was not merely in scholarship, in knowledge of books, and literary attainments that he then stood high above all competition and rivalry. He was even then far less distinguished for the amount of his acquisitions, than for vigor and grasp of mind, for the discipline and training which gave him complete command of himself and all that he knew. He was already remarkable for the same brilliant qualities which distinguished him in his subsequent career. To those who knew him then, and watched his onward course, little change was observable in his style of writing, or in his manner of speaking, except such as would naturally be required by subjects of a wider range and more exciting occasions. His judgment seemed already manly and mature. He comprehended his subject then, as he did afterwards, in all its bearings and relations; looked all through it with the same deep and searching glance, had the same richness and fulness of style, and the same felicitous command of the most beautiful and expressive language, the same contagious fervor of manner, and the same strange fascination of eye and voice, which on a wider stage made him in later life one of the

most powerful and persuasive orators which our country has produced.

"I entered college at the commencement of his senior year, and can myself bear witness to the supremacy which he then held here, in the unanimous judgment of his fellow-students. No other man was ever mentioned in comparison with him. His public college exercises were of a very uncommon character. Unless I was greatly misled by a boyish judgment at the time, or am strangely deceived by looking at them through the recollections of forty years, no college exercises of an undergraduate that I have ever heard are at all worthy to be compared with them, for beauty of style, for extent and variety of illustration, for breadth and scope, and for manly comprehension of the subject. At this distance of time, I well remember every public exercise performed by him while I was a member. I have heard him often since, and on some of the occasions when he is understood to have made the most successful displays of his eloquence; I heard him when he stood upon this spot to pronounce his eulogy on Webster, which has been considered, on authority from which, on such a question, there lies no appeal, to be unequalled among the performances of its class in this country, and I can sincerely say that nothing I have ever heard from him in the maturity and full growth of his powers, has produced upon me a deeper impression, or filled me at the time with a more absorbing and rapt sensation of delight, than those college exercises.

"His Honor, Mr. Justice Nesmith, in his remarks made here at the last Commencement, spoke of Mr. Choate's address as President of the Social Friends, to certain Freshmen who were admitted to the Society in the first term of the year 1818. I was one of those Freshmen, and shall never forget the effect produced by that address. I remember, too, what Mr. Nesmith is more likely to have forgotten, that on the same evening there was a high discussion in the society between two members of Mr. Choate's class, on a very large question, not then entirely new, nor yet, that I have heard, finally decided, 'whether ancient or modern poetry had the superiority.' Mr. Choate was required, as President, by the rules of the society, to give his decision upon

the question. As might be expected from the general bias of his mind, he took strong ground for the ancients, and I well remember, at this distance of time, the general course of his remarks upon the subject."

But though the position of Mr. Choate among his classmates was early determined, and never for one moment afterwards in doubt, no student ever bore his academic honors with greater modesty, or was regarded by his classmates with a more sincere affection. Envy was swallowed up in admiration. The influence of so distinguished a scholar was not confined to his own class but was diffused throughout college. In all matters of literature he was the oracle from which there was no appeal. With sensibilities warm and generous, never showing an unkind emotion, or doing a dishonorable act, it is not surprising that his influence should have been great, or that his memory should be affectionately cherished by many who have hardly seen him for forty years. "Meeting him one day about the last of November," writes one who was in college with him,[1] "something was said about the manner of spending the winter vacation, and I frankly told him that the want of funds required me to teach a school the next quarter. In reply he said, 'You had better hire money and pay ten per cent. interest, and remain here and study and read, than to lose any part of your college life.' . . . . Being the word of a Senior to a Freshman who had no personal claims to his friendly regards, — and of a senior who stood head and shoulders above his coevals,—it made a deep impression on my mind. It was a word not to be forgotten."

Mr. Choate closed his college course in 1819, with the valedictory. The six weeks' senior vacation, which then preceded Commencement, he had passed upon a sick bed, from which he returned with hardly strength to perform his part. He was pale, feeble, and could only deliver the strictly valedictory address. But the effect is said to have been unexampled. Not only his classmates, but half the audience, and not a few among the grave trustees, used to such occasions, were dissolved in tears.

The next year Mr. Choate spent in the then responsible

[1] Rev. A. Converse, D. D.

office of tutor in the college, — a year to him, and almost equally to his pupils, all sunshine, — and then entered upon the study of his profession in the Law-school at Cambridge, presided over, at that time, by Chief Justice Parker, and Asahel Stearns. From them he gained his first insight into the methods, objects, and morality of the law. Still yearning, however, for a wider view of affairs, and influenced perhaps by the fact that his brother-in-law, Dr. Sewall, had removed to Washington, he entered, in 1821, the office of Mr. Wirt, then Attorney-General of the United States, and in the ripeness of his powers and fame. The year at Washington, although he did not see so much as he wished of Mr. Wirt, who was confined for a considerable portion of the time by indisposition, was not without considerable advantage. It enlarged his knowledge of public men and of affairs. He became familiar with the public administration. He spent some hours almost daily in the library of Congress. He began to comprehend still more fully the dignity of his chosen profession. He saw Marshall upon the bench, and heard Pinkney in the Senate, and in his last speech in court, and thenceforth became more than ever an admirer of the genius of those eminent men. Pinkney, he thought the most consummate master of a manly and exuberant spoken English that he ever heard, and he always kept him in view as a sort of model advocate.

Among the college friends of Mr. Choate, to whom he was strongly attached, was James Marsh, whose early attainments and wide culture gave promise of his future eminence, and who already had pushed his studies into the then almost unknown regions of German metaphysics. To him Mr. Choate writes from Washington: —

To Mr. James Marsh, Theological Seminary, Andover, Mass.

"Aug. 11, 1821.

"I take great shame to myself for neglecting so long to answer your letter, and beg you will explain it anyhow but on the supposition that I have meant to requite your own remissness in kind. *My* remissness, you might know, if you would think a moment, is never so intentional a matter as that comes to; 'idleness and irresolution,' will account for it always; and since you, whose fine habits are the envy of all your literary friends, set the example, 'idleness and irresolution,' I shall plead without eva-

sion and without remorse now and henceforward forever. But I wonder if I shall act quite as wisely in pleading, too, other matters of apology? in telling you for instance, that your letter and my own reflections, since I read it, have assured me of what I was suspicious of before, though I never owned it to myself, and pretended not to believe it, that I can really walk no longer 'within that magic circle' where we used to disport ourselves. . . . . This I own I am ashamed of, but that ocean of German theology and metaphysics, (not to say criticism), — ah Marsh, you may swim on alone in that if you will, and much good may it do you! I never could swim in it myself at any rate, (it was like being a yard behind a cuttle-fish,) and have long since made up my mind that any smaller fry than a leviathan stand no sort of chance in its disturbed, muddy, unfathomable waters. On the whole, however, this is no reason at all why we should cease to be very warm friends, and in our way, very punctual correspondents, and so let me thank you at last heartily, for writing such a full and interesting letter, and beg you to repeat your kindness very frequently till we shake hands again in your own *cell* at Andover, or in some one of the gay halls of our endeared Hanover. Our correspondence will certainly answer one end, and that I hope we both think, no inconsiderable one, — it will bring us often into each other's thoughts and presence, and keep green in our memories the days, well spent and happy and dear to us both, of our literary intimacy. We go on together no longer; our paths are widely asunder already, to diverge still more at every step. But for this very reason let us carefully cherish a kindly remembrance of each other, and of the time when our studies, tastes, and objects of ambition were one; and the same intense first love of a new and fascinating department of literature burned in both our bosoms. I darkly gather from what you tell me, that you are plunging still more and more deeply into that incomprehensible science in which you are to live and *to be remembered*, and are contriving every day to detect in it some before-unsuspected relation to those other branches of learning with which a less acute, or less enthusiastic eye, would never see it to have the loosest connection. . . . . I am sadly at a loss for books here, but I sit three days every week in the large Congressional library, and am studying our own extensive ante-revolutionary history, and reading your favorite Gibbon. The only classic I can get is Ovid; and while I am about it, let me say, too, that I read every day some chapters in an English Bible. I miss extremely the rich opportunities we enjoyed formerly, and which you still enjoy, but I hope I shall at last begin to think.

Most truly yours,

"R. CHOATE."

From his residence at the capital and the abundant advantages which it offered to a mind so observant as his, he was suddenly called away before fully completing his first year, by an event which affected him with the deepest sorrow. His brother Washington, his early playmate and fellow-student, younger than himself by nearly four years, entered Dartmouth College the year that Rufus graduated. Unlike his older brother in

ersonal appearance, he resembled him in many intellectual nd moral qualities, and gave promise of equal distinction. e was a tall and slender young man, of a fair complexion, ith light hair and light blue eyes. Entering college with a mparatively thorough preparation, he at once became by uni- ersal and cheerful acknowledgment, the leader of his class, nd yet he was the most gentle, modest, and unobtrusive of em all. The few papers which he left behind him, to which have had access, indicate unusual scholarship and a remarka- e extent of attainment in languages and modern literature. hey show also uncommonly pure and deep religious sensibili- es. Kind, companionable and true, loving and beloved, he had ready consecrated his life to a service in which none could ave fairer hopes of eminence and usefulness, but upon which e was not permitted to enter. Having taught school near ome during the winter of his junior year, he was attacked by he scarlet fever on the very day of his proposed return to ollege, and after a brief illness, died February 27, 1822, at he age of nineteen. During his sickness his thoughts turned ith unwavering and intense affection towards his absent other. He began to dictate a letter to him on the morning the day on which he died. "There is one subject, Rufus," e said, "upon which we must not be dumb so that we speak ot, nor deaf so that we hear not, nor blind so that we may ot see. It is not a subject upon which" —— The sentence as never completed. Not the letter, but the news of his death, as borne to Washington, and it proved almost too much for he elder brother to endure. He sought out and re-read the d books which they had studied together, while the flood- ates of grief were opened, and he refused to be comforted. is studies at Washington were abandoned, and he returned r a while to the seclusion of Essex. Some time afterwards e received the following testimonial from Mr. Wirt, — the alics being his: —

"WASHINGTON, November 2, 1822.

"Mr. Rufus Choate read law in my office and under my rection for about twelve months. *He evinced great power f application, and displayed a force and discrimination of ind from which I formed the most favorable presages of his ture distinction in his profession.* His deportment was in

all respects so correct as to entitle him to respect, and he carried with him my best wishes for his professional eminence, prosperity, and happiness. WM. WIRT."

After remaining for a time at home, he entered his name in the office of Mr. Asa Andrews of Ipswich, and subsequently continued his studies with Judge Cummins, a distinguished lawyer of Salem. He was finally admitted an Attorney of the Court of Common Pleas, in September, 1823, and two years later was enrolled as Attorney of the Supreme Court.

It has been generally stated that Mr. Choate first opened his office in South Danvers, — and this is substantially true. But in fact, he first put up his sign in Salem. It remained up, however, but one night, when his natural modesty, or self-distrust, led him to remove it to Danvers, a little farther from the courts and from direct rivalry with the eminent lawyers who engrossed the business and controlled the opinions of that distinguished bar.

The four or five years that he spent in Danvers were the years of solicitude and hope which can never come twice to a professional man, and which endear to him the place where his first successes are achieved, and the men from whom he receives his first encouragement. He regarded no other place with exactly the feelings which he entertained for Danvers; and the kindness seemed to be fully reciprocated. During his short residence there he twice represented the town in the Legislature, and for one year was a member of the Senate.

Not long after opening his office, and perhaps when under some feeling of discouragement, he thus closes a letter to his friend Mr. Marsh, then tutor in Hampden Sydney College, Virginia.

"There is a new novel by the author of 'Valerius,' that a friend of mine here says is very clever, but I haven't got it yet. He seems, from that specimen, at any rate, to be a man of elegant and thorough studies, and, without any such fertility and versatility as that *other*, — our Shakspeare, — might hit out a single performance of pretty formidable pretensions to equality in some great features. How wretchedly adapted is our American liberal education and our subsequent course of life, to form and mature a mind of so much depth,

aste, and beautiful enlargement. How vulgar and untaught ve generally are with all our unquestionable natural capacty. . . . . I don't remember to have ever looked upon the oming in of the first month of winter, with a more prostrating sense of *miserableness*, than presses upon me every moment that I am not hard at study. Cold is itself an intolerable evil, and it comes with such a dreary accompaniment of whistling wind and falling leaf, that 'I would not live alway' f these were the terms on which we were to hold out. I eally think that the time of life, when the nakedness and lesolation of a fast darkening November could be softened nd relieved by blending in it fancy, romance, association, and iope, is gone by with me, and I actually tremble to see lifting up from one season of the year after another, from one *character* after another, and from life itself, even a life of tudy, ambition, and social intercourse, that fair woven cover, which is spread upon so much blackness, hollowness, and commonplace. But towards you my feelings change not, and so of about five more persons only whom I have ever known. — Begging you to excuse everything amiss.

"*Danvers, Nov.* 23, 1823." Yours, R. C."

Mr. Choate's immediate success, although as great as could be anticipated, was not particularly striking, and during the first two or three years, in some seasons of despondency, he seriously debated whether he should not throw up his profession, and seek some other method of support. In the mean time, in 1825, he was united in marriage with Helen Olcott, daughter of Mills Olcott, Esq., of Hanover, N. H. Few men have been more widely known in New Hampshire, or more deeply respected than Mr. Olcott. He was a person of remarkable sagacity, of great wisdom in the conduct of affairs, magnanimous and generous, eminently courteous, dignified and kind, one of the few to whom the old-fashioned name of gentleman could be applied without restriction or reserve. This congenial alliance was one of the many felicitous circumstances of Mr. Choate's early career. It brought him sympathy, encouragement, and support. It not only gave him a new stimulus to labor, but proved in all respects most congenial with his tastes, and favorable to his social aspirations.

Although he did not at first escape the fate of most young lawyers, the number of whose clients is not always equal to their wishes, yet his unwearied diligence, his fidelity, and the fame of his eloquence and skill, soon brought to him a full share of the business of the town and country. He early formed the habit of doing for his client everything that the case required irrespective of reward. Before a justice of the peace, in an office not larger than a shoemaker's shop, in defence of some petty offender, he poured forth the same wealth of words and illustrations, of humor and wit, and in its measure, of learning and argument, which afterwards delighted the Supreme Court and the Senate. Indeed, throughout his life, he never reserved his brilliant arguments for a suitable audience. He early made it a rule, for the sake of increasing his power as an advocate, to argue at full length every case he tried, and to do his best on every occasion. He as resolutely determined to shrink from no labor which might be necessary to the perfect completion of whatever he undertook. In a famous dog case at Beverly, it was said that 'he treated the dog as though he were a lion or an elephant, and the crabbed old squire with the compliment and consideration of a chief justice!'

On one very stormy night during his residence in Danvers, he was called upon at a late hour, to draw up the will of a dying man who lived several miles distant. He went, performed the service and returned home. But after going to bed, as he lay revolving in his mind each provision of the paper he had so rapidly prepared, there flashed across his memory an omission that might possibly cause the testator's intention to be misunderstood. He sprang from his bed and began dressing himself rapidly, to the great surprise of his wife, only answering her inquiries by saying that he had done what must be undone, and in the thick of the storm, rode again to his dying client, explained the reason of his return, and drew a codicil to the will which made everything sure. He related this in after-life in illustration of a remark, that sometimes, years after a case had been tried, he would feel a pang of reproach that he had not urged some argument which at that moment flashed across his mind. He always fought his *lost* cases over again, to see if he could find any argument whereby he might

ıave gained them. Nor did he at this time neglect his ɔurely literary studies. A literary society, already existing n the town, found in him an active and valuable member. The lecture on "The Waverley Novels," was then prepared. He also delivered two 4th of July orations, one before the Danvers Light Infantry, of which corps he became a member, ınd one before the citizens at large.

In the mean time his professional fame was spreading. His ınique and vigorous eloquence, his assiduity, care, and fidelty to his clients, adorned with a modesty as singular as it ıvas beautiful, gained him many friends and more admirers.

An extract from a letter of Chief Justice Shaw, will show ıow his reputation gradually increased at the bar: — "I had ın opportunity to see Mr. Choate, and witness his powers as ın advocate very early, when he first opened an office in Danvers, and when I had scarcely heard his name mentioned. It happened, that in consequence of one or more large failures in Danvers, a number of litigated suits were commenced between various parties, all of which, — to avoid delay and ɔbtain a more early decision I suppose, — were referred to the late Hon. Samuel Hoar of Concord, and myself, as arbitrators. We attended at the court-house in Salem and heard them, I think, in June, 1826. Mr. Choate appeared as counsel in several of them. As he was previously unknown to us by reputation, and regarding him as we did, as a young lawyer just commencing practice in a country town, we were much and very agreeably surprised at the display of his powers. It appeared to me that he then manifested much of that keen, legal discrimination, of the acuteness, skill, and comprehensive view of the requirements of his case, in the examination of witnesses, and that clearness and force in presenting questions both of fact and law, by which he was so much distinguished in his subsequent brilliant professional career. He soon after this removed to Salem, and in a short time became extensively and favorably known, as a jurist and advocate."

Salem and Danvers were then, as now, closely connected. The first case in which he professionally appeared in the former city, was in defence of a number of young men of respectable families, charged with riotous proceedings at a low dance-house. I cannot do so well as to take the account fur-

nished to the "Salem Register" by one of the distinguished members of the Essex bar.[1] "The case excited much interest from the character and position of some of the parties implicated, and especially from the fame, even then, of the young advocate. He had before that time, I believe, appeared before some of the magistrates of Danvers. . . . . Under these circumstances it is not strange that when the 'Mumford Case,' as it was called, came up in Salem, — a somewhat larger and broader theatre, — a more diversified audience, — ship-masters, old salts, supercargoes, clerks, merchants, and the various men of the various callings of the chief town of the county, — an interest and a feeling altogether unusual should have been excited on the occasion. It was so. The place where Justice Savage held his court, was a large room on the second floor of a substantial building, in one of the principal streets, and it was immediately densely packed with all the varieties of the population. The trial commenced and proceeded; witness after witness was called, and all subjected to the severest and most rigid cross-examination by the young counsel. Now and then a passage at arms with the counsel for the government, (a gentleman of very considerable experience in criminal courts, and of some fifteen or twenty years' standing at the bar,) would come up to give variety to the scene; and now and then, a gentle, most gracious and reverential rencontre with the honorable court would intervene, and again a hard contest with some perverse and obstinate witness, would relieve the tedium of the protracted examination. Some of the immediate auditors would get overheated, and then work themselves out into the fresh air, and report the proceedings, — the sayings and doings of the young lawyer, — what he said to his antagonist, Esq. T., or to the honorable court, or this or that fugitive comment on the witness, or case, as the trial proceeded, (an inveterate habit of Mr. Choate's, in all his early practice, and no court or counsel were or could be quick enough to prevent it, — it would breathe out, this or that comment, or word, or suggestion.)

"In this way, and by such means, the fame of the case extended, while the trial was in progress, some two or three

[1] Hon. Asahel Huntington.

days, in the office of a police justice! Men of the various classes would assemble around the court-room, in the entry, on the stairs, outside, to hear the fresh reports, and so things continued till the *argument* came, and then there was a rush for every available point and spot within or without the compass of the speaker's voice, and the people literally hung with delighted and most absorbed attention on his lips. It was a new revelation to this audience. They had heard able and eloquent men before in courts of justice and elsewhere. Essex had had for years and generations an able, learned, and eloquent bar; there had been many giants among us, some of national fame and standing, but no such giant as this had appeared before, — such words, such epithets, such involutions, such close and powerful logic all the while, — such grace and dignity, such profusion and waste even of everything beautiful and lovely! No, not waste, he never *wasted* a word. How he dignified that Court, — how he elevated its high functions, with what deference did he presume to say a word, under the protection, and, as he hoped, with the approving sanction of that high tribunal of justice, in behalf of his unfortunate (infelicitous, from the circumstances in which they were placed), clients! I could give no word or sentence of this speech. I did not even hear it, but I heard much about it, and all accounts agreed in representing it as an extraordinary and wholly matchless performance. They had never heard the like before, or anything even approaching it, for manner and substance. It was a new school of rhetoric, oratory, and logic, and of all manner of diverse forces, working, however, steadily and irresistibly in one direction to accomplish the speaker's purpose and object. The feeling excited by this first speech of Mr. Choate in Salem, was one of great admiration and delight. All felt *lifted up* by his themes. . . . . And all were prepared to welcome him, when, a few years afterwards, he took up his abode here, after the elevation of his old friend and teacher, Judge Cummins, to the bench of the Court of Common Pleas."

CHAPTER II.

1830–1840.

Removal to Salem — The Essex Bar — Successes — Appearance — Counsel in the Knapp Case — Studies — Letter to President Marsh — Elected to Congress — Commonplace Book — Letter to President Marsh — Enters Congress — Speeches on Revolutionary Pensions, and on the Tariff — Letter to Dr. Andrew Nichols — Letters to Professor George Bush — The Second Session — Georgia, and the Missionaries to the Indians — Letter to Professor Bush — Reëlected to Congress — Speech on the Removal of the Deposits — Resigns his Seat — Removes to Boston — Lecture on the "Waverley Novels," and on "The Romance of the Sea" — Death of his Youngest Child.

IN 1828, Mr. Choate removed to Salem. The Essex bar was then, as it had long been, distinguished for learning and skill. The memory of Dane and Parsons, and Story and Putnam, was fresh and fragrant; John Pickering, Leverett Saltonstall, Eben Mosely, David Cummins, and John Varnum, were still in full practice; Caleb Cushing, Robert C. Rantoul, and others like them, were making their influence felt as young men of ability and ambition. Mr. Choate was already known for the qualities by which he was afterwards distinguished, learning, assiduity, a judgment almost unerring, an ornate and exuberant style, and remarkable powers of advocacy. Without assumption, modest, deferential, he yet rose at once to a high position through the combined force of eminent talents and professional fidelity.

He became the leading counsel in criminal practice, and it was said that during his residence in Salem "no man was convicted whom he defended." It was however true that he was not eager to assume a defence unless there appeared to be a good legal ground for it. Many stories were current of his ingenuity and success. One of the most characteristic was that told of a man by the name of Jefferds, indicted for stealing a flock of turkeys. "We had this case," says a distinguished member of the bar, to whose reminiscences I am already indebted,[1] "at every term of the court for a

[1] Hon. Asahel Huntington.

year or more, and the inquiry used to be 'When are the turkeys coming on?' The proofs accumulated on the part of the government at each successive trial. The County Attorney, a man of experience and ability, fortified himself on every point, and piled proof upon proof at each successive trial, but all without success. The voice of the charmer was too powerful for his proofs, and at each trial — three or four in all, I forget which — there was *one* dissenting juror. The case at last became famous in the county, and in the vacations of the court the inquiry was often heard, 'When is the turkey case coming on again?' and persons would come from different parts of the county on purpose to hear that trial. Here the theatre was still larger. It was the county, the native county, of the already distinguished advocate. I heard those trials. One was in old Ipswich in December, I think — a leisure season — within four miles of the spot where the orator was born. They came up from Essex — old Chebacco — the old and the young men of the town. Representatives, more or less, from the whole body of the county, were present, and the court-house was crowded with delighted and astonished listeners. I remember how they all hung upon him, spellbound by his eloquence, and I verily believe these by-standers would have acquitted by a majority vote; but the jury, bound by their oaths to return a true verdict according to the evidence, would not do so; but still there was one dissenting juror; and finally the prosecuting officer, in utter despair, after the third or fourth trial, entered a *nolle prosequi*, and thus the turkeys were turned or driven out of court. I have heard that this alleged turkey-thief years afterward called on Mr. Choate at his office in Boston. Mr. Choate did not recollect him, which greatly surprised the old client, and he said, 'Why, Mr. Choate, I am the man you plead so for in the turkey case, when they couldn't find anything agin me.' There had been only forty-four good and true men *against* him, (if there were four trials, and I believe there were,) without including twenty-three more of the grand jury!"

The power of presenting things in a ludicrous aspect, by an odd turn of expression or a laughable exaggeration, was exhibited at this early period no less decidedly than in later life, and was equally effective in attracting attention. A mis-

chievous boy had proved very troublesome to a man by the name of Adams, by letting down the bars of his pasture, destroying the fences, and similar misdeeds. Adams one day caught him at his tricks, and not being in a very humane or careful mood, seized and swung him round by the hair of his head. The father of the boy prosecuted Adams, and Mr. Choate defended him. In the course of the argument, he characterized the act as "a little paternal stretching of the neck, which perchance may save this froward lad from a final and more eventful stretching." The jury seem to have thought so too, for Adams was acquitted.

One Philip Finnigan was charged with stealing grease and ashes from a Mr. Nichols. Finnigan, on getting the articles, said they were for Mr. Winchester, a noted soap manufacturer, but Mr. Winchester coming up at the moment, exposed the falsehood, and the articles were returned. Mr. Choate in the defence, contended that it was only a trick to defraud Mr. Winchester out of a customer, not to steal from Mr. Nichols; "*a shabby and ungentlemanly affair*, to be sure, but not the crime he is charged with." I believe the defence was successful.

Mr. Choate was at this time in full health, muscular and vigorous, of a pale or nearly colorless complexion, with a remarkably intellectual countenance. A gentleman, then a boy, who lived very near him, has told me that he often stopped to look at him through the window, as he passed by the house early in the evening, thinking him the handsomest person he had ever seen.

It would be a mistake to suppose that during these years at Salem he was mainly occupied with inferior cases, or interested in the criminal law to the neglect of other branches of the profession. Dependent as he was upon his own exertions he probably, like other young lawyers, felt obliged to accept such cases as were offered to him. But few, perhaps, so early in their career, have had a wider range of clients. One of the most important trials in which he was engaged, although his name does not appear on the record, was that of Knapp, for the murder of Capt. Joseph White. That celebrated case is familiarly known. Capt. White was found dead in his bed on the morning of April 7th, 1830. Richard

Crowninshield, Jr., Joseph J. Knapp, Jr., and John Francis Knapp, were arrested and charged with the murder. Crowninshield committed suicide in prison, and Frank Knapp was put on trial as principal, the law then requiring that some one should be convicted as principal, before any one could be tried as accessory. He was defended by Franklin Dexter, and William H. Gardiner. Mr. Webster, was employed by the relatives of Capt. White, to assist the attorney for the government, and besides him were retained several other lawyers, who were prevented by professional etiquette from publicly acting in the case. Among these was Mr. Choate. The trial came on at a special term of the Supreme Court held at Salem, July 20th. It continued with some intermission till the 20th of August. The community was profoundly shocked by the crime, and watched the course of the trial with the deepest interest. The counsel for the government were fully aware of the responsibility resting on them, and shared the agitation pervading the town and county. Every evening they deliberated together, and I have been told by one of them, that Mr. Webster obviously gave great heed to the suggestions of Mr. Choate, who was always present and a prominent adviser. On one occasion during the trial, an obscure but important fact was denied by the counsel for the defence. They had omitted to record it, and it was found to have escaped the attention of every one except Mr. Webster and Mr. Choate, who were thus able to corroborate each other.

During his entire residence in Salem, Mr. Choate was a diligent and untiring student not only of law, but of the whole circle of literature, and especially of mental and political philosophy. He had laid a broad foundation, and was erecting a lofty and beautiful superstructure. He complained sometimes of his desultory habits, but his friends saw how carefully he methodized his knowledge, and how entirely he had it at command. His habit was to study standing at a high desk, with pen in hand, and a manuscript book open before him. These little volumes or *brochures*, — for they are generally a quire or two of letter-paper stitched together, — are crowded with facts, incidents, principles, and reflections, which demonstrate both his diligence and thoughtfulness. The equity practice of Massachusetts was then in an unsettled and confused state. He

devoted himself for a while to gathering up the statutes and reducing the decisions to a regular code. The words with which, many years afterward, he briefly delineated the character and attainments of a brother lawyer, may even at this time describe his own.

"His knowledge of the jurisprudence of chancery, and his fondness for it, were very remarkable. Few men of any time of life had studied it so thoroughly, discerned so well how it rose above, and how it supplied the deficiencies of the common law, or loved it as truly and intelligently. To such a mind and such tastes as his, its comparative freedom from technicalities, its regulated discretion, and its efforts to accomplish exact justice and effectual relief, possessed a charm and had a value, far beyond that of the more artificial science, whose incompleteness and rigidity it supplies and ameliorates, and whose certainty at last reposes on the learning, or the ignorance, or the humors of man.

"Beyond his profession he read and he speculated more variously and more independently than most men of any profession. Elegant general literature, politics, theology, in its relation to the religion revealed in the Bible, and to that philosophy which performs its main achievements in conciliating faith with reason, — these were his recreations."

With special care he studied again the philosophy of the Mind, making Dr. Reid's Essays his text-book, and during a considerable part of one summer devoted himself to the study of theology, in preparation of a case, which finally he did not argue, in defence of a person charged before an association of ministers, with error in doctrine.

His literary pursuits and the increasing demands of his profession, compelled him to keep somewhat secluded from society, but there were a few college acquaintances of kindred tastes, with whom he maintained a correspondence, and in whose welfare he ever had a deep interest. Foremost among these was his old friend Rev. Dr. James Marsh, then President of the University of Vermont, through whose efforts the American public were first introduced to a knowledge of the philosophical writings of Coleridge, and whose early death took from us one of the most thorough scholars, and one of the profoundest Christian philosophers, which our country has

produced. There were few men for whom Mr. Choate had such unqualified respect and affection.

The following letter is in reply to one from Dr. Marsh asking him to review the forthcoming edition of the "Aids to Reflection": —

To President James Marsh.

"Salem, November 14, 1829.

"My Dear Sir, — I thought it due to the respect and love I bear you, and to the kindness and delicacy of the terms in which you make it, to give your suggestion one week's consideration before trusting myself to act upon it. The result is that I feel it will be wholly impossible for me to execute this duty of friendship and literature in a manner worthy of the book or its editor, or of the elevated and important purposes at which you aim in this high enterprise. I know you believe me to be *willing* to do everything in such circumstances which the relation we sustain to each other gives a right to expect, and it is with very real regret that I feel myself unable adequately to do this great thing. My habits have become almost exclusively professional, and my time, I don't very well know how, seems to be just about as completely engrossed by the cases of business, as if, like Henry Brougham, I was habitually arguing my five causes a day. But there are obstacles in the way which lie deeper, such as the difficulty of gathering up the faculties which are now scattered over the barren technicalities and frivolous controversies of my profession, and concentrating them fixedly upon a great moral and philosophical conception, like this of yours, worthily to write, edit, or review such a book. Though I never saw it I may say so. One should sit whole weeks and months, still, alone, in a study, with the Apollo Belvedere in marble to look upon, and Plato, Cicero, Bacon, Milton, and 'all those' to converse with. I could no more raise myself into the mood for this achievement than I could make a better epic poem than the Iliad. But I rejoice that you have taken this matter in hand, and I firmly believe you will produce a glorious book most nobly edited. The employment of preparing it must be elevating and salutary, and I sincerely hope its general public success may be brilliant beyond the hopes of literary ambition. I shall buy the book, though I dare not undertake to review it.

"I had no suspicion that the Orthodoxy of Andover 'looked askance' at you or yours, and I suspect the matter has been overstated to you. But it may be so, since very much narrowness of mind and very great soundness of faith do sometimes go together, and the Professors have all a sort of strange horror of speculation, however regulated by a general orthodox belief, and a sincere love of truth and of man. But '*nitor in adversum*,' says Burke, 'is the motto for a man like me.' I should no more stop to consider how a volume of matured and brilliant thoughts would be received at Andover, than how it would be received by the Pope or President Jackson. '*Tu ne cede malis, sed contra audentior ito.*' Such was George Canning's self-exhortation, when he went forth morning and evening to fight the great battles of liberty and emancipation with the armed and mailed champions of old abuse, error, and political orthodoxy, and a thrilling and sustaining scripture it is.

"And now I shall insist upon your being perfectly satisfied with my declining this honor. If a more specific reason were necessary, I might add that the principal term of our S. J. C. is now holding here, has been for a fortnight, and will be till the last of December. Then I have to go to Boston for our winter's session. Nay, before that is over, I hope the country will ring from side to side with the fame of your book.

"With best regards and wishes, and Mrs. Choate's respects,

"I am Yours affectionately,

"R. CHOATE."

In 1830, Mr. Choate was nominated by the National Republicans of Essex as Representative to Congress. The result of the Convention was communicated to him in the following characteristic letter: —

"Salem, 10th Mo. 18, 1830.

"RUFUS CHOATE, ESQ. — The Convention have determined, after several ballotings, to support thee for Representative to Congress for this district; the last ballot, which produced this result, stood twenty-three to twelve. I called at thy office previous to the balloting to ascertain whether the nomination would be agreeable, and after the vote was determined I informed the Convention of thy absence, and a committee was appointed to inform thee of the result, and obtain an answer of acceptance or otherwise. I can now say that I believe no other name would run as well in Lynn, Chelsea, Saugus, and Lynnfield, and I have no doubt of an election at the first meeting, provided thy acceptance is seasonably announced. If consistent with thy interest and inclination, it would be gratifying to me to hear of thy acceptance. When we find the right man in all other respects, we are willing to waive the Masonic objection, believing the time is coming when all men of talents and respectability will leave that mere *shadow* for things more substantial.

"Thy friend,

"STEPHEN OLIVER."

Mr. Choate was then thirty-one years old and had already, as we have seen, passed through the usual initiatory steps of public life, by serving in the State Legislature. The old district of Essex South, as it was called, had been represented in Congress for eight years by Hon. Benj. W. Crowninshield, a gentleman of great respectability, wealth, and family distinction, who had been Secretary of the Navy under Madison and Monroe. A good deal of feeling was naturally expressed by his friends, that a young and untried man, whose political opinions were not widely known, and whose acquaintance with the great commercial interests of the district could not be presumed to equal that of the veterans in politics, should be nominated in place of their tried and proved representative,

and Mr. Crowninshield was supported as an independent candidate. Strong influences were of course brought to bear against the young lawyer, who had little to sustain him in the conflict besides his own character and merits. He was charged with being ambitious; and one young politician, then a student at law in the office of Mr. Saltonstall, in a vehement declamation, declared, that so far from being a substantial and permanent citizen, like Mr. Crowninshield, he was only stopping in Salem for a short time "while he oated his horse," as he was on his way to Boston.

In all the contest, however, it was remarked that no unkindness seemed to be felt towards Mr. Choate personally. His name had been brought forward without his own knowledge, mainly through the agency of his old friends in Danvers, and he was, with some difficulty, prevailed on to accept the honor. About the severest thing said of him, politically, during an active canvass, was a remark in one of the papers that "Mr. Choate is a gentleman of distinguished talents, but we regret to state that he is suspected of Jacksonism!" Suspected or not, however, he was chosen, after an honorable and exciting contest, by a majority of more than five hundred votes over all opposing candidates. Although not ambitious of political life, he was not insensible to its honors, nor untouched by its fascinations. He regarded it, however, as a means rather than as an end. The opportunities it gave for acquaintance with distinguished men, for wide observation of affairs, and study of great national questions, he certainly thought much of, but his heart was fixed upon his profession, both as a necessity, and as offering large opportunities for attainment and eminence. The new position brought with it new duties and responsibilities from which he did not shrink, and which he did not undervalue. He at once endeavored to prepare for them. No sooner was he elected than he laid out a plan of study which should best fit him honorably to represent his constituents. I have before me a commonplace book, one of the small manuscript folios spoken of before, which shows both the subjects to which he devoted himself, and his methods of study. The first page is as follows; the words are often abbreviated, and in his peculiar handwriting, difficult to decipher.

"Nov. 4, 1830.

"FACIENDA AD MUNUS *NUPER IMPOSITUM.*

"1. *Pers. quals.* [personal qualities]. Memory, — Daily Food and Cowper dum ambulo. Voice, Manner, — Exercitationes diurnæ.

"2. Current Politics in papers. 1. Cum Notulis, daily, — Geog. &c. 2. Annual Regr., Past Intelligencers, &c.

"3. District S. E. [i. e. Essex South], Pop. Occs., [Population, Occupations]. Modes of living. Commerce, — The Treaties, — and principles on which it depends.

"4. Civil History of U. States — in Pitkin and [original] Sources.

"5. Exam. of Pending Questions: Tariff, Pub. Lands, Indians, Nullification.

"6. Am. and Brit. Eloquence, — Writing, Practice."

Then follow more than twenty pages of the closest writing, with abbreviated and condensed statements of results drawn from many volumes, newspapers, messages, and speeches, with propositions and arguments for and against, methodically arranged under topics, with minute divisions and subdivisions. Some of these heads, under which he endeavors to compress the most essential political knowledge, are these: —

1. Public Lands, giving the number of acres in the whole country, the States where they lie, the sources whence derived, the progress and system of sales, &c., &c.

2. Politics of 1831, brought down to the beginning of the session in December, an analysis of the President's Message, and notes upon the subjects which it suggests; the measures and policy of the government.

3. The Tariff, beginning with an analysis of Hamilton's Report in 1790; History of Legislation respecting it; Internal Improvements, their cost and the Constitutional power of making them.

Then follow three or four closely written pages on particular articles: wool, cotton, flax, hemp, iron, as affected by the tariff.

4. Analysis of British opinions.

5. Cause of the Excitement in the Southern States.

6. Commerce of the United States in 1831.

These are but a sample of the subjects which occupied his attention, but they may serve to indicate the thoroughness with which he prepared for his new position. A letter to President

Marsh will in some measure show his feeling and views respecting political life: —

To President James Marsh.

"Salem, November 14, 1830.

"My dear Sir, — I am extremely obliged to you for the very kind notice which you have taken of what has lately befallen, — a new and most pleasant indication how far and how high in life you have carried with you the generosity and friendliness of our earlier intimacy. Your letter was handed me in court, — in the very middle of the agony of the trial of a man for his life, — but I opened it straightway, and read it with the keenest pleasure, — and forgetting for a moment your glances at the future, mused for an hour over the 'sweet and bitter fancies' that are spread over the recollections of the days of our personal studious intercourse, so long past. Then I just showed the outside of the letter to a brother lawyer, who knows a little literature, as being a letter from James Marsh of Burlington, — and having thus sacrificed to vanity a trifle, roused myself up to hear Webster argue a great question of law, on which the life of the worst of the murderers of Captain White depended.

"The matter of my election I do suppose rather a foolish one on my part, — but the nomination was so made that I could not avoid it without wilfully shutting myself out of Congress for life, — since my declining would undoubtedly have brought forward some other new candidate, who if elected, would go ten years at least, — long before which time, if living, I might have removed from the District. The opposition which was got up was a good deal formidable, for noise and anger at least, and the wonder is that so little came of it. I, more than once, while it was raging about me, wished myself a tutor in the Indian Charity School, upon $350 per annum, teaching the first book of Livy to the class, and studying with you that dreadful chapter in Mitford about the Dialects. The responsibilities of the new place I appreciate fully; — *pro parte virili*, I shall try to meet them. I have a whole year yet, you know, before me, before I take my seat, — quite short time enough for me to mature and enter on a course of study and thought adapted to this sphere of duty. I hardly dare yet look the matter in the face. Political life — between us — is no part of my plan, although I trust I shall aim in good faith to perform the duties *temporarily* and *incidentally* thus assigned.

"Why don't you let me know your daily literary employments, — how you divide your hours, — what you read, think, or write. I should dearly love to know just where you are on the ocean of knowledge, and what are at any given moment, the great objects with you of intellectual interest, or active or official pursuit. Have you read a little book called the 'Natural History of Enthusiasm?' I approve its religious character entirely, and should think it the book of a noble and full mind. . . . . Please to present my respects to Mrs. Marsh, and believe me ever,

"Respectfully Yours,

"R. Choate."

Mr. Choate took his seat in Congress in December, 1831, and soon acquired from all parties that involuntary respect which a vigorous and well-stored mind is sure to receive. He was modest and retiring, seldom obtruding upon the House by a formal speech, was not very tolerant of committees, but eagerly watched the course of events, carefully examined public questions, and made free use of the Library of Congress. Massachusetts was then represented by men of whom any State might be proud. In the Senate were Nathaniel Silsbee and Daniel Webster, then in the fulness of his strength and fame. In the House were John Quincy Adams, Nathan Appleton, George N. Briggs, Edward Everett, and John Davis. The Congress itself was composed of an unusual number of statesmen. Among the Senators were Peleg Sprague, Samuel Prentiss, William L. Marcy, George M. Dallas, John M. Clayton, Henry Clay, and Thomas H. Benton. The House had such men as James M. Wayne, George M'Duffie, George Evans, James K. Polk, Thomas Corwin, and G. C. Verplanck. In this body Mr. Choate took his seat, as it soon proved, an equal among equals. It was a period of great political excitement. General Jackson was drawing near the close of the first term of his Presidency, sustained by warm friends, yet opposed by some of the ablest statesmen in the country.

Mr. Choate made but two speeches during the session, one on Revolutionary Pensions, the other on the Tariff, but these gave him a position at once among the most able and persuasive speakers of the House. One of these speeches was made under unusual circumstances. The subject of the Tariff had been hanging for some time in the Committee, when one afternoon Mr. Choate obtained the floor. There were but few members present when he rose, but as he continued to speak, one after another came from the lobbies to the door, stood a moment to listen, were caught and drawn to their seats by the irresistible charm of his mellifluous utterance, till gradually the hall became full, and all, for convenience of hearing, gathered in a circle about the speaker. He had a nervous dread of thunder, and was never quite at ease in a severe storm. Before he had half finished his speech a dark thunder cloud rolled up and suddenly burst over the Capitol. Mr.

te was standing directly under the central sky-light; his ıale with a blackish paleness, and his whole frame tremu- vith unusual excitement. The hearers caught his emotion istened intently as he went on. At the same time the in- ıng darkness, the rushing wind and rain, the lurid light gh the distant windows, the red and searching gleams of ghtning, the rattling peals of thunder, the circle of up- d white faces, lighted from above, gazing earnestly on the er, — all made it a scene not easily to be forgotten. He in the modest, deferential manner natural to him, with ıme delicious, uninterrupted flow of choice words, and with y a gesture except the lifting and settling of the upper part ; body, and he sat down amidst the enthusiasm of those ıeard him, members of all parties rushing to offer their atulations. His position as a parliamentary orator was ished.

e tariff and nullification were the great subjects which sted the public mind during this session. A single to a constituent will give an insight into the political and fears of the writer, and of those who belonged to ıme party with him.

To Dr. Andrew Nichols, Danvers, Mass.

" Washington, 14th Jan. 1832.

EAR SIR, — I have just received your favor of the 9th, and assure at I have read it with interest and pleasure. You will have seen this reaches you, that the battle is already begun, and that Clay esented to the Senate and the country, a clear and explicit outline principles on which the friends of the tariff are willing to meet isis occasioned by the extinguishment of the debt. This exposi- his, is undoubtedly the result of the combined wisdom of the whole party as here represented, and the committees in each branch port bills carrying the principle into details. It is considered here d, just, and saving creed; and I should think the system in its features perfectly safe. It is the all-engrossing topic. I cannot ıinking that the excitement at the South is to a considerable degree al. Certain it is, the injurious effects of the tariff on them are overrated. To the cotton manufacture, I should say they are ıuch reconciled, and considering what a vast market it creates for otton, — taking a sixth perhaps of the whole crop, — it would be if they were not. Coarse *woollens* are the special objects of their y. Then they hate New England, and they think, or affect to that the tariff raises the prices of their purchases, for the sole of the New England manufacturer. But all is safe and sure, and ars more will probably satisfy South Carolina herself that the New

England cotton market, the increased value of slaves, diminished quantity and higher price of cotton from the sugar culture of Louisiana, the fall of prices from the competition of American and foreign manufactures in our own market, afford even her some compensation for the prosperity of the North and East. The article in the last 'American Quarterly' is by Senator Johnston of Louisiana, — a State of great importance to the friends of the system. All the west, the middle States, and east, except Maine and New Hampshire, are sound, and have just as little fancy for slow poison, and being cut up in detail, as they have for violent instantaneous death, or a general rout. Clay's presence in the Senate this winter is providential. Surely he is needed more than in 1824, if possible, and he has cordial, most able, and sufficient support in the Senate. His speech was not showy, nor vehement, but cool, plain, paternal, grave, conciliatory. With great respect, &c.,

"R. CHOATE."

Among the college friends of Mr. Choate, sympathizing with him in love of learning, and carrying his pursuits into fields at that time not much cultivated in this country, was Rev. George Bush, a thorough scholar, and an eloquent writer. He had been giving a careful attention to Oriental literature, and sowing the seed which afterwards grew into the "Life of Mohammed," Hebrew Grammars, and Commentaries on several books of the Old Testament. Many years afterwards he adopted the opinions of Swedenborg, and deservedly obtained great respect and influence among the followers of that mystic philosopher and religious apostle. A correspondence with Mr. Bush was revived by Mr. Choate during this his first session at Washington.

TO REV. GEORGE BUSH.

"Washington, 21 Jan. 1832.

"MY DEAR SIR, — I received a few days since a portion of a work on which I had heard you were engaged, addressed to me in a handwriting which I could not fail to recognize as yours, although the most recent specimen of it in my possession is now about eleven years old. I embrace the generous intimation conveyed in this notice, to present to you my respects, and to extend to you, in the language of ordination, the right hand of that old and cherished fellowship to which I owe so much. . . . . How have these eleven years, — twelve years, is it not? — how has time 'which changes everything, man more than anything,' dealt with you? What a curiosity one feels to see if he can find the traces of that imperceptible, busy, and really awful touch under which temple and tower at length fall down, upon the countenance and person, in the eye, tones, and feelings of an old friend long absent! In one respect, this long interval has been to both of us alike full of short joy and enduring sorrow, — each having possessed and lost an object of dearest love which the

other never saw. But I forgot that perhaps you never heard that I have buried within two years a most sweet and bright child of four years old, whom I would have given a right arm to save. It must be a vast alleviation of your far greater bereavement that your child is spared.

"A hundred thousand recollections come over me as I write to you, which stop me, make me lay down my pen, and rest my head on my hand. Dismissing them all, I beg to know why you will not come on here a little while this winter? Besides your friends at Dr. Lindsley's, you will find at least one old pupil — besides myself, — a Mrs. H., the wife of a member who remembers your term of service at Mr. D.'s seminary with respect and affection, — and some few other objects of interest. Let go the pains and pleasures of authorship for a month; come and see with how little wisdom the world is governed, and return with a lighter heart to Mohammed and Joseph, Arabia, Egypt, and the waters of Israel. I have a chamber in a third story by myself; a long table, — perhaps the most desirable of luxuries, — with two windows looking out upon the shores of Virginia, the setting sun, and the grave of Washington, and here you shall sit if you will, and we will sacrifice to renewed friendship and auld lang syne. But I forget all proprieties, like the Dominie upon the recovery of Bertram. I stop short therefore, first earnestly hoping to hear from you immediately. With great regard and affection, Yours,

"R. Choate."

To Rev. George Bush.

"Washington, Feb. 12, 1832.

"My Dear Sir, — I hardly can get time, so 'strenuous' and full of incident is the idleness of our life here, to write a letter, except of a Sunday afternoon, after morning at church. Last Sunday I began to write you, — was interrupted, and, like a resolution offered the last month of the session, it has stood over one week. . . . . I shall send you what I write to-day, though it be no more than a bare expression of thanks for your letter, and a hope to have many more like it. I learn from Dr. C. that your brother's health compels him to take a voyage, which of course puts it out of your power to continue your personal attentions. If this leaves you so much disengaged that you can come, I hope to see you here yet. You will be driven from that great city by the *cholera* I am afraid, before long, — an awful scourge of national and personal sins, which we can no more escape in this country, than we can turn back the east wind to his sources in the caves of the sea. I board with a physician, and have, therefore, an instructed and reasonable dread of this business. But whoso best knows Washington, will be least disposed to recommend it as a city of refuge. I was surprised at the reasons you suggest for withdrawing from the pulpit. But it little matters what the vocation is, if it be suited to the measure, fulness, and desires of the mind which it attaches to itself. I think educated, tasteful, and knowing men, however, should remember that 'great parts are a great trust,' and that there is responsibleness connected as well with the proper selection of employment, as with the discharge of its duties when selected. I hold a good book and good sermon, to be not only well *per se*, but to be worthy, fitting, and adequate achieve-

ments of good minds. Authorship and the business of instruction go well together, however, or else the introduction to Old Mortality is as much a fiction as the main story.

"I should think, *quocunque nomine gaudes*, however employed, New York would be a pleasant residence for you. To be sure, as in duty bound, I hold Boston, with its University society, rather the best place to live in, in all North America, but I cannot but see its inferiority in some respects to New York. You are so near to England, and so central to all the art, enterprise, science, mind, and politics of the Republic, that you have great advantage over the more provincial portions of the country, so much farther from which the 'sun drives his chariot.' There must be a wide circle of fine minds in that city, — Verplanck here is such an one I should think, — 'a thing that's most uncommon,' an honest, learned, modest, reasonable man, — yet a Van Buren Jacksonian, — *credite posteri!*

"What do you think, now, — I have the Shakspeare here which you gave me, and I read a few lines of Greek and Latin every morning, and I trust, if we should meet, we could take each other up just where we were set down twelve years ago, even in the humanities. In all love and honor, respect and affection, I am sure we could. I wish you would write me very often, assured always that you write to a constant, as well as old friend. Yours ever,

"R. CHOATE."

Congress adjourned July 14, 1832. The summer and autumn were full of political excitement. The result of the elections was the renewed choice of Andrew Jackson for President, (over Henry Clay,) by an immense majority. The result was not unexpected. "The news from the voting States," wrote Mr. Choate to Mr. Everett on the 10th of November, "blows over us like a great cold storm. I suppose all is lost, and that the map may be rolled up for twelve years to come. Happy if when it is opened again, no State shall be missing."

Among the subjects which deeply agitated the popular mind of the North, especially of the religious communities, was the treatment of the Southern Indians, by the States within whose boundaries they existed.

In legislating against the Cherokees, Georgia had passed a law that no white man should reside within the limits of the Cherokee nation, without permission from the governor of the State, and after having taken an oath to support and defend the laws of Georgia, on penalty of imprisonment at hard labor for a term not exceeding four years. Under this law Rev. Messrs. Worcester and Butler, missionaries of the American Board to the Indians, and five others, were tried

nd sentenced in September, 1831. After conviction, pardon
as offered on condition of obedience to the State law. Five
ersons accepted the offer, but Messrs. Worcester and Butler
efused and appealed to the U. S. Supreme Court. Mr. Wirt
nd Mr. Sergeant argued their cause. Georgia did not appear,
ut the court, in March, 1832, pronounced the law of the
State unconstitutional. Georgia refused to obey the man-
late or reverse her decision. The missionaries, however, af-
er about eighteen months' imprisonment, were pardoned and
eleased on the 16th of January, 1833. In the mean time
ullification, as it was called, had assumed a portentous mag-
itude in South Carolina. A convention had been holden;
he State bristled with bayonets; defiance was upon every
ip. At the head of the general government was a man,
who, whatever were his faults, never lacked courage, or reso-
ution, or patriotism. In January, 1833, General Jackson
ssued his famous proclamation against South Carolina. It
as honest, weighty, and irresistible. Party feeling for a
hile was quelled. The moral sentiment of the country sus-
ained the President. A letter from Mr. Choate to his
riend, Prof. Bush, who seems for the moment to have taken
view opposed to the President, will indicate his own feeling
nd that of many others with him.

To Professor George Bush.

"Washington, January 29, 1833.

"My dear Friend, — Your letter finds me swallowing lots of worm-
ood tea, — not to sweeten my imagination, but to check a furious sick
eadache, — a poor mood for answering deep questions, though an excel-
nt one for appreciating a letter from a loved and honored friend. Did
not talk about you an hour to Dr. Bond, — *Tutor* Bond, — last Sunday
vening? The Doctor stands against time like 'an obelisk fronting the
un.' He reminds me of Livy's pictured page, I warrant me, of Consuls,
ictors, axes, and especially Tarpeian rocks, — down which all nullifiers
nd states-rights men — except you — ought to be precipitated, *Senatus consulto, edicto, plebiscito,* — Latin or no Latin, — under the gram-
ar or against it. How the missionaries settled the matter with their
use and consciences I have never heard. Speaking as a politician, I
ejoice that Georgia has been thus detached from South Carolina, and
arnessed into the great car of the Constitution. It needs *tali auxilio* : *defensoribus istis* even. My dear friend, there is no more danger of
onsolidation — (that is until the States first go apart, snapping these ties
f gauze), than there is of an invasion by the real Xerxes of Herodotus.
ne single mistake now, any yielding, anything short of a dead march up

to the whole outermost limit of Constitutional power, and the Federal Government is contemptible forever. The Georgia case is, to be sure, a bad business. It is a clear case of nullification by the State. But so far as the missionaries are concerned, the Federal Government has not declined any duty. The Judiciary performed its part. The President is called on for nothing, until another application to the Federal Judiciary, and that, you see, the *pardon* interposes to render unnecessary. The two systems have not directly clashed though they bit their thumbs. The Indians, — the treaties, — the whole code of intercourse law, — all go overboard of course. The moral guilt of the S. C. case is less. The constitutional enormity of the thing is more palpable and more tangible, and the precedent, *pejoris exempli — pessimi* indeed. . . . . .

"The session is now one of thrilling interest. Calhoun is drunk with disappointment; the image of an ardent, imaginative, intellectual man, who once thought it as easy 'to set the stars of glory on his brow' as to put his hat on; now ruined, dishonored. He has to defend the most contemptible *untruth* in the whole history of human opinion, and no ability will save him from contempt *mentally*. Then he hoped to recover himself by a brilliant stroke, permanently inserting nullification into our polity, and putting himself at the head of a great Convention of the States, — a great midnight thunder-storm, hail-storm, meeting of witches and demons, round a caldron big enough to receive the *disjecta membra* of the Constitution, — thence never to come a whole, still less a blooming, young and vigorous form. Wherefore *pereat*. I am somewhat weak from medicine, and must bid you farewell. Write me daily, and reconsider the point of Consolidation. I say that will come with Xerxes.

"Truly yours,

"R. CHOATE."

In April, 1833, having been again nominated by the National Republicans, Mr. Choate was reëlected to Congress by an increased majority. Opposition from the friends of Mr. Crowninshield had nearly died away, and from many of them he received a cordial support. The most exciting subject of the next session was the Bank of the United States. The President had already refused assent to a bill re-chartering this institution, and soon after determined to remove the public moneys deposited in its vaults. After the adjournment of Congress, in March, 1833, William J. Duane of Pennsylvania, was appointed Secretary of the Treasury, Mr. M'Lane having been transferred to the Department of State. The President at once urged the new Secretary to remove the deposits, which, not being convinced of the wisdom of the measure, he declined to do. Upon this President Jackson removed him from office, and appointed in his place Roger B. Taney, who immediately carried out the wishes of the Executive. Great

ımercial distress followed this proceeding. The act was demned by many of the friends of the administration as l as by the opposition. Confidence was destroyed, business ɛrrupted, industry checked, and all moneyed institutions anged, where but a few months before everything was ac- ɛ and prosperous. The Senate was opposed to the Presi- ıt, and passed a resolution censuring his conduct; but the use had a large majority in his favor. Memorials were lressed to Congress from various cities and public bodies. e Committee of Ways and Means having submitted a re- t with reference to the removal of the deposits, Mr. Choate lressed the House on the 28th March, 1834. He had pared himself to consider the whole subject in its con- utional relations as well as financial, but at the suggestion Mr. Webster, confined himself to the latter branch of subject. The speech is direct, earnest, persuasive, and ciliatory. It was with relation to this speech that the an- ote is told of Benjamin Hardin, — "*Old Ben Hardin*," — he was called, of Kentucky, who then heard Mr. Choate the first time. I give it in the words of one who was sent. "Mr. Hardin was an old stager in politics, a strong- ıded, though somewhat rough individual, who was not dis- ed to much leniency in his criticisms of the efforts of ınger members. He was, like Mr. Choate, Whig in poli- , and several days, or perhaps weeks, after the speech of . Choate, he made an elaborate argument on the same ɛstion, and on the same side. At the outset of his remarks stated that it was his uniform rule not to listen to speeches ın the same side of a question that he intended to discuss, he wished to be conscious of feeling that no part of his ar- nent had been anticipated by others, 'but,' said he, 'I was ıpelled to depart from this rule once during this debate. e member from Massachusetts rose to speak, and, in ac- dance with my custom, I took my hat to leave, lingering a ment just to notice the tone of his voice and the manner of speech. But that moment was fatal to my resolution. I ame charmed by the music of his voice, and was captivated the power of his eloquence, and found myself wholly una- to move until the last word of his beautiful speech had n uttered.'"

At the close of this session, having determined to remove to Boston, Mr. Choate resigned his place in Congress. While at Salem he had continued his studies in literature, always with him second only in interest to the profession on which he depended for daily bread. Besides the lecture on the "Waverley Novels," he had delivered another on Poland, taking the occasion from the revolution in that country to present a well-considered and careful picture of her government, resources, and people, in a style fervid, yet moderate and sustained. He also delivered an address at the centennial celebration of the settlement of Ipswich.

In removing to Boston Mr. Choate felt that the experiment was doubtful. Some judicious friends advised against the change. He left an established position, and a growing practice, for severer contests and a sharper rivalship. But generous rivalry he never feared, and the result showed how truly he estimated his own powers. He had now a family — two daughters and a son — to stimulate his labor. Two older children he had lost. They now lie in the graveyard at Essex.

Not long after he came to Boston, as early perhaps as 1836, he gave a lecture on "The Romance of the Sea." The subject was one in which he could revel. The mystery, the power of the ocean, the achievements upon its many waters, all that poets have sung, all that history or fiction has told, went to form the substance or illustration of the theme. It was one of the most fascinating of his many lectures. He afterwards lost it, or it was stolen from him, in New York. But if stolen it is really pleasant to think of the disappointment of the thief. A Coptic manuscript would have been to him quite as legible.

The first six or seven years in Boston were marked mainly by a steady growth in his profession. Every young man who enters such a community, bringing a reputation earned in a different field, is necessarily subjected to close scrutiny. His ability is judged by a new, and perhaps severer standard. He is a stranger until he has proved himself worthy of the fellowship of a citizen. The pride of the bar, generous, but necessarily exclusive, grants its honors to him only who can fairly win them. Mr. Choate, — whose appearance and manner

were unique, whose eloquence then was as exuberant, fervid, and rich as it ever became; who, however modest for himself, was bold almost to rashness for his client; who startled court and jury by his vehemence, and confounded the commonplace and routine lawyer, by the novelty and brilliancy of his tactics; who, free from vulgar tricks, was yet full of surprises, and though perpetually delighting by the novelty and beauty of his argument, was yet without conceit or vanity,—could not at once be fully understood and appreciated. He fairly fought his way to eminence; created the taste which he gratified; and demonstrated the possibility of almost a new variety of eloquence. It would have been surprising, if he had not to contend with prejudices which time only could fully melt away. For several years it was rather the fashion to laugh at his excessive vehemence of gesture, and playful exaggerations, but when it was found that the flowers and myrtle concealed a blade of perfect temper, and as keen as any that the dryest logician could forge, that the fervent gesticulator never for one moment lost command of himself or his subject, nor failed to hold the thought and interest of the jury, as the ancient mariner held the wedding-guest, till convinced, delighted, entranced, they were eager to find a verdict for his client, — doubt gave place to confidence, and disparagement to admiration. During these six or seven years he was steadily growing in knowledge and in influence. He made the more familiar acquaintance with the leaders of the Suffolk bar, then unsurpassed in the whole land for ability and learning. There he met (not to speak of the living), the polished rhetoric of Franklin Dexter, the subtle and powerful logic of Jeremiah Mason, and the tremendous weight and authority of Webster. He heard the law expounded and declared by the integrity, and learning and wisdom of Samuel Hubbard, and Samuel Sumner Wilde, and Lemuel Shaw. To meet such competitors, to stand unharmed before the judgments of such a tribunal, compelled the most diligent and unremitting study. Distinction could be attained only by merit. Eminence was itself proof of high abilities and of strenuous labor. Preserving his interest in letters, he still found time to deliver a number of lectures before associations of young men, and with ever increasing popularity. He suffered also a severe domestic calamity. Two daughters were

born to him in Boston. Of these the youngest, Caroline, was in 1840, three years old. To all his children he was tenderly attached, and to her, perhaps as being the youngest, especially. She was a beautiful child, and he never failed, coming home late from the labors of his office, to go up to the room where she was sleeping, to give her an evening kiss. The following account of her last hours, in the words of a clergyman, who, in the absence of Mr. Choate's pastor, Rev. Dr. Adams, was called to be present, will show the extreme tenderness and affection of the father. On the day of her death Mr. Choate had sent him the following note: —

"Boston, Saturday morning.

"*To Rev. Hubbard Winslow:* —

"MY DEAR SIR, — I am apprehensive that I am about losing my youngest child, and I take the liberty to ask you, if not very inconvenient, to do us the great kindness of baptizing her. Her mother is a member of a church, and this ordinance has been accidentally delayed.

"I am aware of the freedom of this request, but I hope the severity and peculiarity of our trying circumstances will excuse it. It seems to us that 3 o'clock P. M., or a little after, may be as late as we shall desire to delay — perhaps too late.

"If you can consent to do us this favor, and will apprise me of the decision, I will send a carriage for you.

"Very respectfully, your obedient servant,

"RUFUS CHOATE."

"Entering the chamber," says Dr. Winslow, "at the appointed time, I found the family all assembled. The beautiful little girl of perhaps three years lay dying. Mr. Choate said, 'I hope you will pardon this liberty. We have given our dear child to God, and we think He is about to take her; but we have neglected her baptism.' I said a few words of the ordinance as not essential to the salvation of the child, but the answer of a good conscience on the part of the parents. He assented, and said he desired to do his duty in that particular. All kneeled in prayer, and after the ordinance and a few remarks, I was about to retire, to leave the weeping family to the sacredness of their domestic sorrow, when Mr. Choate took my hand and besought me to remain with them while the child lived. I consented to remain till evening, when I had another engagement. He stood by the fireplace, resting his elbows on the marble, burying his face in his hands, evidently absorbed in prayer. Mrs. Choate was bending over

pillow, with the yearning tenderness of a mother, and the
er children and servants stood around in silent grief;
ile I sat by the bedside observing the child's symptoms,
l sometimes repeating a passage of Scripture or a pertinent
nza of poetry. And thus a full hour passed in silence, in
yer, in tears, in communion with death and eternity, Mr.
oate remaining motionless as a statue during the whole
ıe. Perceiving the pulse failing and the breath becoming
y short and difficult, I said 'Mr. Choate, I fear the dear
ld is just leaving us.' He then came to the bedside, em-
ced her, kissed her three times, and then returned and
umed his position as before. All the family followed him
the parting kiss. A few moments after, the angel spirit
l. I closed the sightless eyes, and said, 'My dear Mr.
oate, your sweet child is in heaven!' He burst instantly
› a flood of tears, and sobbed aloud. He did not change
position, but remained with his face buried in his hands,
l the tears pouring like rain-drops upon the hearth-stone.
d thus he continued, until duty compelled me to leave the
ımber of death. He then came and thanked me, and said
h deep emotion, 'I feel greatly comforted; my dear child
› gone home. It was God's will to take her, and that is
›ugh.'"

CHAPTER III.

1841–1843.

Professional Advancement — Letters to Richard S. Storrs, Jr. — Chosen Senator in place of Mr. Webster — Death of General Harrison — Eulogy in Faneuil Hall — Extra Session of Congress — Speech on the M'Leod Case — The Fiscal Bank Bill — Collision with Mr. Clay — Nomination of Mr. Everett as Minister to England — Letter to Mr. Sumner — Letters to his Son — The next Session — Speech on providing further Remedial Justice in the United States Courts — Letters to Mr. Sumner — The North Eastern Boundary Question — Journal.

MR. CHOATE'S professional advancement in Boston was no accident, nor the result of peculiarly favoring circumstances. It was the reward of untiring diligence as well as of great ability. Every day he was gaining ground, enlarging and consolidating his knowledge, and invigorating his faculties. A few years served to give him a position second to none except the acknowledged and long-tried leaders of the bar. His consummate judgment in the conduct of a cause, no less than his brilliant power as an advocate, commanded respect from the most able. He knew when to speak, and, what is more difficult, when to be silent. In the most intricate and doubtful case, when fairly engaged, he did not allow himself to despair, and was often successful against the greatest odds. In defeat he was never sullen, and in victory he bore himself with so much modesty and gentleness, that few envied his success. He especially attached to himself the younger members of the profession, by unvarying kindness. He had great sympathy for a young lawyer. His advice and aid were always ready; voluntarily offered if he thought they were needed; and if sought, cheerfully and freely bestowed. He assumed no superiority in this intercourse, but by a kind suggestion or a few words of encouragement, insured success by inspiring confidence.

The following letter is in answer to one asking his advice as to a course of reading. The gentleman to whom it was

written, had entered his office as a student, but subsequently, on account of Mr. Choate's probable absence from Boston, went to spend a year in general studies at Andover.

To Richard S. Storrs, Jr.

"Boston, 2d Jan. 1841.

"Dear Sir, — I should have been very happy to answer your letter before this, but a succession of engagements, some of them of a painful kind, have made it impossible. Even now I can do very little more than congratulate you on being able to spend a year at such a place, and to suggest that very general '*macte virtute*,' which serves only to express good wishes without doing anything to help realize them. I should be embarrassed, if I were in your situation, to know exactly what to do. The study of a profession is a prescribed and necessary course, — that of general literature, or of literature preparatory to our, or to any profession, is, on the other hand, so limitless, — so indeterminate, — so much a matter of taste, — it depends so much on the intellectual and moral traits of the student, what he needs and what he ought to shun, that an educated young man can really judge better for himself than another for him.

"As immediately preparatory to the study of the Law, I should follow the usual suggestion, to review thoroughly English history, — Constitutional history in Hallam particularly, and American Constitutional and Civil history in Pitkin and Story. Rutherford's Institutes and the best course of Moral Philosophy you can find, will be very valuable introductory *consolidating* matter. Aristotle's Politics, and all of Edmund Burke's works, and all of Cicero's works, would form an admirable course of reading, 'a library of eloquence and reason,' to form the sentiments and polish the tastes, and fertilize and enlarge the mind of a young man aspiring to be a lawyer and statesman. Cicero and Burke I would know by heart; both superlatively great — the latter the greatest, living in a later age, belonging to the modern mind and genius, though the former had more power over an audience, — both knew everything.

"I would read every day one page at least, — more if you can, — in some fine English writer, solely for elegant style and expression. William Pinkney said to a friend of mine 'he never read a fine sentence in any author without committing it to memory.' The result was decidedly the most splendid and most powerful English *spoken* style I ever heard.

"I am ashamed to have written so hurriedly in the midst of a trial, but I preferred it to longer silence. Accept my best wishes, and assure yourself I am

Very truly yours,

"R. Choate."

Subsequently, when Mr. Storrs decided to abandon the study of law for a theological course, Mr. Choate wrote him: —

"My dear Sir, — I have just received your letter and hasten to say that I have been much interested by it. The *entire result* has been

much as I anticipated; and, all considerations of duty apart, I am inclined to think as a mere matter of rational happiness, — happiness from books, culture, the social affections, the estimation of others, and a sense of general usefulness and of consideration, you have chosen wisely. Duty, however, I think was clear, and when it is clear it is peremptory.

"I should not accept a fee, of course, under such circumstances, but shall expect you to send me all the sermons you print, and that they be good ones. I am very truly

"Your friend and serv't,

"RUFUS CHOATE.

"*Senate Chamber,*
"*30th March.*"

In 1841, Mr. Webster having accepted the office of Secretary of State under General Harrison, it became necessary for the Legislature of Massachusetts to elect another Senator to fill his place. The position was both delicate and difficult. The public wishes soon pointed to Mr. Choate, and his friends proceeded to consult him about the matter. The offer was at first met by a decided refusal, nor was it until after repeated interviews, and the greatest urgency, that he finally permitted his name to be brought before the Legislature, and then only with the express understanding that he should be allowed to resign the place within two or three years. The causes of this reluctance to accept so high and honorable and attractive an office were probably many and complicated. His natural modesty, a distaste for the annoyances of public life, a loathing of political schemers, plans of study and achievement with which public duties would interfere, the necessity of an income, the love of personal independence, — all these undoubtedly influenced his judgment.

Before taking his seat, the new Senator was called upon to deliver a eulogium upon the lamented President, in Faneuil Hall. It was a sincere and eloquent tribute to one whom the nation loved as a man even more than it respected as a President. General Harrison was inaugurated on the 4th of March, 1841. He died on the 4th of April, before having had time to establish distinctly the policy of the administration, but having summoned an extra session of Congress to meet on the 31st of May. The Vice-President, Mr. Tyler, immediately assumed the duties of the Presidency, not without solicitude on the part of the Whigs, with whom he had not always been identified, but yet with prevailing hopes. "The President," says

Mr. Choate in a letter shortly after reaching Washington, "is in high spirits, — making a good impression. He will stand by Mr. Webster, and the talk of an unfriendly conservative action is *true*, but not terrifying."

Mr. Choate's first speech in the Senate was upon a subject on which the public mind in some parts of the country had been deeply agitated, and which involved difficult questions of international law. It was the case of Alexander M'Leod, charged with burning the Steamer Caroline. This forward and boastful person, who seems not to have been engaged at all in the exploit in which he had professed to be a prominent actor, having ventured into the State of New York, was arrested on an indictment found against him shortly after the destruction of the boat, and held for trial by the State Courts. The British Government assumed the act, by whomsoever done, as its own, and through its minister, Mr. Fox, demanded the release of the prisoner. This demand could not be complied with, since the prisoner was arraigned before the State Courts; but the Attorney-General of the United States, Mr. Crittenden, under the direction of Mr. Webster, then Secretary of State, was sent to observe the trial and render such assistance as should be proper and necessary. The subject was brought before Congress by the message of the President, when the policy of the Government, and especially the instructions and letter of Mr. Webster, were severely censured by Mr. Benton, Mr. Buchanan, and Mr. Calhoun, and defended by Mr. Rives, Mr. Choate, Mr. Huntington, and Mr. Preston. In the House, the administration was sustained with great ability by John Quincy Adams, and Mr. Cushing. The speech of Mr. Choate called forth warm commendations from all parties. "It was the first appearance of the Senator in debate here," said Mr. Buchanan, in his reply, "and, judging of others by myself, I must say, that those who have listened to him once will be anxious to hear him again."

It was during this extra session, when Mr. Choate was quite new to the Senate, that a slight collision took place between himself and Mr. Clay, the nature and importance of which were, perhaps intentionally, exaggerated by the party newspapers. Mr. Clay was the leader of the Whigs in the Senate, flushed with success, urgent of favorite measures, some-

what distrustful of the new President, Mr. Tyler, and excited by a report of the formation of a new party in opposition to his interests. The finances of the country had, for several years, been much deranged, and the great immediate objects of the Whigs, on coming into power, were the repeal of the Independent Treasury Acts, the reëstablishing, in some form, of a National Bank, and an adequate provision for the public revenue. The first of these objects was accomplished without difficulty or delay. The bill for the purpose passed the Senate and the House by large majorities, and was at once approved by the President. The second object, the incorporation of a bank, was a more delicate and difficult matter. Mr. Tyler was known to be opposed to the old United States Bank, though it was thought that a charter might be framed to which he would have no objection. Accordingly Mr. Clay, early in the session, moved a call upon the Secretary of the Treasury, Mr. Ewing, for the plan of a bank. It was given, and coming from such a source, was presumed to be in accordance with the ideas of the President. Upon this report a bill was modelled. To this bill Mr. Rives of Virginia offered an amendment, — which he supported by an able argument, — making the assent of the States necessary for the establishment of branches within their limits. Mr. Clay earnestly opposed the proposition, and Mr. Preston with equal earnestness sustained it. On the next day Mr. Choate made a short speech in favor of Mr. Rives's amendment, not because he doubted the constitutionality of the bill as reported by the committee, but mainly from considerations of policy.

"I do not vote for the bill," he said, "from any doubt of the constitutional power of Congress to establish branches all over the States, possessing the discounting function, directly and adversely against their united assent. I differ in this particular wholly from the Senator who moves the amendment. I have no more doubt of your power to make such a bank and such branches anywhere, than of your power to build a post-office or a custom-house anywhere. This question for me is settled, and settled rightly. I have the honor and happiness to concur on it with all, or almost all, our greatest names; with our national judicial tribunal, and with both the two great original political parties; with Washington, Hamilton, Marshall, Story,

Madison, Monroe, Crawford, and with the entire Republican administration and organization of 1816 and 1817.

"But it does not follow, because we possess this or any other power, that it is wise or needful, in any given case, to attempt to exert it. We may find ourselves so situated that we cannot do it if we would, for want of the concurrence of other judgments; and therefore a struggle might be as unavailing as it would be mischievous and unseemly. We may find ourselves so situated that we ought not to do it if we could. All things which are lawful are not convenient, are not practicable, are not wise, are not safe, are not kind. A sound and healing discretion, therefore, the moral coercion of irresistible circumstances, may fitly temper and even wholly restrain the exercise of the clearest power ever belonging to human government."

He then proceeded to state his reasons for voting for the amendment. The first was, that the country greatly needed the bank, and in his opinion that result would be much sooner and more surely reached by admitting the bill as amended. "By uniting here on this amendment," he said, "you put an effective bank in operation, to some useful and substantial extent, by the first of January. Turn now to the other alternative. Sir, if you adhere to the bill reported by the Committee, I fully believe you pass no bank charter this session. I doubt whether you carry it through Congress. If you can, I do not believe you can make it a law. I have no doubt you will fail to do so. I do not enter on the reasons of my belief. The rules of orderly proceeding here, decorum, pride, regret, would all prevent my doing it. I have no personal or private grounds for the conviction which holds me fast; but I judge on notorious, and to my mind, decisive indications; and I know that it is my duty to act on my belief, whether well or ill founded, and however conjecturally derived."

Another reason assigned for his vote was that it would lead to united counsels and actions.

"In a larger view of the matter," he went on to say, "is it not in a high degree desirable to make such a charter, that while it secures to the people all that such kind of instrumentality as a bank can secure, we may still, in the mode and details of the thing, respect the scruples and spare the feelings of those who, just as meritoriously, usefully, and conspicuously

as yourselves, are members of our political association, but who differ with you on the question of constitutional power? If I can improve the local currency, diffuse a sound and uniform national one, facilitate, cheapen, and systematize the exchanges, secure the safe-keeping and transmission of the public money, promote commerce, and deepen and multiply the springs of a healthful credit by a bank, and can at the same time so do it as to retain the cordial constant coöperation, and prolong the public usefulness of friends who hold a different theory of the Constitution, is it not just so much clear gain? I was struck, in listening to the senator from Virginia yesterday, with the thought, how idle, how senseless it is to spend time in deploring or being peevish about the inveterate constitutional opinions of the community he so ably represents. There the opinions are. What will you do with them? You cannot change them. You cannot stride over or disregard them. There they are; what will you do with them? Compromise the matter. Adjust it, if you can, in such sort that they shall neither yield their opinions, nor you yield yours. Give to the people all the practical good which a bank can give, and let the constitutional question, whether Congress can make a bank by its own power or not, stand over for argument on the last day of the Greek Kalends, when the disputants may have the world all to themselves to wrangle it out in! Yes, Sir, compromise it. Our whole history is but a history of compromises. You have compromised in larger things; do it in less, do it in this. You have done it for the sake of the Union; do it for the sake of the party which is doing it for the sake of the Union. You never made one which was received with wider and sincerer joy than this would be. Do it then. Do as your fathers did when they came together, delegates from the slave States, and delegates from the free, representatives of planters, of mechanics, of manufacturers, and the owners of ships, the cool and slow New England men, and the mercurial children of the sun, and sat down side by side in the presence of Washington, to frame this more perfect Union. Administer the Constitution in the temper that created it. Do as you have yourselves done in more than one great crisis of your affairs, when questions of power and of administration have shaken these halls and this whole coun-

try, and an enlarged and commanding spirit, not yet passed away from our counsels, assisted you to rule the uproar, and to pour seasonable oil on the rising sea. Happy, thrice happy, for us all, if the senator from Kentucky would allow himself to-day to win another victory of conciliation."

. . . . . .

"Let me say, Sir," he went on after a brief intervening statement on the nature of the amendment, "that to administer the contested powers of the Constitution is, for those of you who believe that they exist, at all times a trust of difficulty and delicacy. I do not know that I should not venture to suggest this general direction for the performance of that grave duty. Steadily and strongly assert their existence; do not surrender them; retain them with a provident forecast; for the time may come when you will need to enforce them by the whole moral and physical strength of the Union; but do not exert them at all so long as you can by other less offensive expedients of wisdom, effectually secure to the people all the practical benefits which you believe they were inserted into the Constitution to secure. Thus will the Union last longest, and do most good. To exercise a contested power without necessity, on a notion of keeping up the tone of government, is not much better than tyranny, and very improvident and impolitic tyranny, too. It is turning 'extreme medicine into daily bread.' It forgets that the final end of government is not to exert restraint, but to do good.

"Within this general view of the true mode of administering contested powers, I think the measure we propose is as wise as it is conciliatory; wise because it is conciliatory; wise because it reconciles a strong theory of the Constitution with a discreet and kind administration of it. I desire to give the country a bank. Well, here is a mode in which I can do it. Shall I refuse to do it in that mode because I cannot at the same time and by the same operation gain a victory over the settled constitutional opinions, and show my contempt for the ancient and unappeasable jealousy and prejudices of not far from half of the American people? Shall I refuse to do it in that mode because I cannot at the same time and by the same operation win a triumph of constitutional law over political associates who agree with me on nine in ten of all the ques-

tions which divide the parties of the country; whose energies and eloquence, under many an October and many an August sun, have contributed so much to the transcendent reformation which has brought you into power?

"There is one consideration more which has had some influence in determining my vote. I confess that I think that a bank established in the manner contemplated by this amendment stands, in the actual circumstances of our time, a chance to lead a quieter and more secure life, so to speak, than a bank established by the bill. I think it worth our while to try to make, what never yet was seen, a popular National Bank. Judging from the past and the present, from the last years of the last bank, and the manner in which its existence was terminated; from the tone of debate and of the press, and the general indications of public opinion, I acknowledge an apprehension that such an institution, — created by a direct exertion of your power, throwing off its branches without regard to the wishes or wants of the States, as judged of by themselves, and without any attempt to engage their auxiliary cooperation, diminishing the business and reducing the profits of the local banks, and exempted from their burdens, — that such an institution may not find so quiet and safe a field of operation as is desirable for usefulness and profit. I do not wish to see it standing like a fortified post on a foreign border — never wholly at peace, always assailed, always belligerent; not falling perhaps, but never safe, the nurse and the prize of unappeasable hostility. No, Sir. Even such an institution, under conceivable circumstances, it might be our duty to establish and maintain in the face of all opposition and to the last gasp. But so much evil attends such a state of things, so much insecurity, so much excitement; it would be exposed to the pelting of such a pitiless storm of the press and public speech; so many demagogues would get good livings by railing at it; so many honest men would really regard it as unconstitutional, and as dangerous to business and liberty, — that it is worth an exertion to avoid it. . . . . Sir, I desire to see the Bank of the United States become a cherished domestic institution, reposing in the bosom of our law and of our attachments. Established by the concurrent action or on the application of the States, such might be its character. There will be a strug-

gle on the question of admitting the discount power into the States; much good sense and much nonsense will be spoken and written; but such a struggle will be harmless and brief, and when that is over, all is over. The States which exclude it will hardly exasperate themselves further about it. Those which admit it will soothe themselves with the consideration that the act is their own, and that the existence of this power of the branch is a perpetual recognition of their sovereignty. Thus might it sooner cease to wear the alien, aggressive, and privileged aspect which has rendered it offensive, and become sooner blended with the mass of domestic interests, cherished by the same regards, protected by the same and by a higher law." [1]

It was during this speech that Mr. Clay, who had left his own seat, and through the courtesy of a younger member, had taken another nearer Mr. Choate, rose and interrupted the speaker with an inquiry as to the grounds of his knowledge that the Bank Bill would not pass without the amendment. The intimacy of Mr. Choate with Mr. Webster, then Secretary of State, gave a weight to his words, and the implication in Mr. Clay's question evidently was, that he had derived his knowledge, directly or indirectly from the President himself. In a subsequent part of the discussion, Mr. Archer, in opposing the amendment of Mr. Rives, took occasion to express his regret that the Senator from Kentucky had endeavored to draw from Mr. Choate the opinions of the Executive. Mr. Clay rose to explain, and this led to a sharp interlocutory debate between himself and Mr. Choate, which ended by Mr. Clay's interrupting Mr. Choate in the midst of an explanation, and saying "That, Sir, is not the thing. Did you not say that you could not, without breach of privilege and violation of parliamentary rule, disclose your authority?" "Sir," replied Mr. Choate, "I insist on my right to explain what I did say in my own words." Mr. Clay persisted in requesting a direct answer, and Mr. Choate replied again, "that he would have to take the answer as he chose to give it to him." The parties were here called to order, and the President requested both gentlemen to take their seats. That Mr. Clay in this, bringing all the weight of his experience, age, character, and

[1] Appendix to Congressional Globe, July, 1841, pp. 355, 356.

long public life to bear upon a member of his own party, new to the Senate, and not yet practically familiar with its usages, should have seemed overbearing and arrogant, was unavoidable, and it might have justified a sharper retort than was given. I have been informed by those who were present that the impression in the senate chamber was much less than it was represented by the newspapers, especially by those opposed to Mr. Clay and the Whig party. But whatever may have been the feeling of the moment, at the meeting of the Senate on the next day, Mr. Clay with great magnanimity and earnestness denied the intention which had been imputed to him, and disclaimed entirely the design of placing the Senator from Massachusetts in a questionable position. Many who were present were struck with the nobleness of the apology, and Mr. Choate, of all men the most gentle and placable, went round to Mr. Clay who sat on the opposite side of the chamber, and made open demonstration of reconciliation.

Another matter which interested Mr. Choate very much during this session was the confirmation of Mr. Everett as Minister to England. The nomination, which was regarded by all right-minded people as one of the most appropriate that could be made, was fiercely assailed on account of an opinion which Mr. Everett had once given in favor of the right and duty of Congress to abolish slavery in the District of Columbia. He was charged with being an "abolitionist," a word of indefinite but fearful import. Mr. Choate felt that the rejection of a minister on grounds so intangible, so untenable, and so inadequate, would be for the disgrace of the country, and he exerted himself to the utmost to prevent such a result. Those who heard his principal speech in favor of the nomination considered it one of the most brilliant and eloquent ever delivered within the walls of the senate chamber.[1]

A member of the Senate who was present during the debate, in a letter written to Mr. Choate many years afterwards, thus recalls the scene: "My dear Sir, Mr. Buchanan's nomination brings up some reminiscences of you and of him, which are by no means pleasant to me, now that there is a possibility he may be President. I refer, of course, to the lead he took

[1] There are no remains of this speech, which was delivered in executive session, with closed doors.

on one side and you on the other, in the debate which preceded Mr. Everett's confirmation as Minister to London. I well remember the cogency and splendor of your argument, and the emotion it raised in Preston, who, completely overpowered by the conviction to which you brought him, exclaimed, boiling with excitement, 'I shall have to vote "No," but by —— he shall not be REJECTED.'[1] With all my admiration for your effort, the whole scene was deeply painful and humiliating to me, more so probably than to any man in the chamber. I was indignant beyond the power of language at the requirement of the South, that the nomination should be voted down, and the nominee branded as unfit to represent his country at the British Court, simply and solely because he had replied to the question put to him, that Congress might and ought to abolish slavery in the District of Columbia. B.'s hostility was vindictive and savage. He distinctly and emphatically denounced Mr. E. as an 'abolitionist,' for this and this only, disclaiming all opposition to him as a Whig, or as otherwise objectionable."

Mr. Clay made a powerful speech in favor of the nomination, and said that if it was rejected, there would never be another President of the *United* States. A familiar letter to Mr. Sumner, then prominent among the younger members of the Whig party, alludes to this among other things. Though without date, (for this was one of the points of a letter about which Mr. Choate was habitually careless,) it must have been written in September 1841, Congress adjourning on the 13th of that month, and the Senate not confirming the nomination till very near the close of the session.

To CHARLES SUMNER, ESQ.

"Washington.

"MY DEAR SUMNER,— I have just received the memorandum, and will turn it *nocturna et diurna manu*,— to quote obscure and unusual Latin words. I hope it will do your friend's business, and the Pope's, and England's, and the lone Imperial mother's — as you say.

"Mr. Webster is so much excited (and confidentially, gratified) with the *squaboshment* of the Whigs[2] that he will talk of nothing else. He thinks he can *seal* better with Sir Robert Peel *et id genus*. Can he? Your acquaintance was made with so whiggish a set, that I suppose you mourn

[1] I have understood that Colonel Preston, when afterwards on a visit to Boston, told a friend that he never regretted any vote he had given as he did that against Mr. Everett.

[2] Lord Melbourne's ministry.

as for the flight of liberty. But mark you, how much more *peaceably, purely, intellectually,* did this roaring democracy of ours change its whole government and whole policy, last fall, than England has done it now.

"Yes, Everett's is a good appointment. Ask me when I get home, *if we did not come near losing him in the Senate from Abolitionism; — entre nous,* — if we *do*, the Union goes to pieces like a potter's vessel. But as Ercles' vein is not lightly nor often to be indulged in, — (*nec Deus intersit nisi,* &c.,) — I give love to Hillard, salute you, and am very truly

"Yours,

"RUFUS CHOATE."

"P. S. — We shall have a veto after all, *ut timeo.*"

The veto, the second veto, was sent in September 9, and Congress adjourned the 13th.

A few letters to his son, then about seven years old, and at school in Essex, will show the affectionate, playful, yet earnest character of his intercourse with his children.

TO RUFUS CHOATE, JR.

"Washington, 30 May, 1841.

"MY DEAR SON, — It is just a week to-day since I kissed you a good-by, and now I am five hundred miles, or nearly so, from you. I feel quite sad to think of it; and if I did not suppose you were a good boy, and at the head, and going on fast with the Latin, I should feel still worse. But I hope you love books better and better every day. You will learn one of these days who it is that says, 'Come, my best friends, my books.' I suppose you have no roses yet at Essex, or green peas, or mown grass — though you used to say that you saw everything there nearly. Here, the whole city is in blossom. They are making hay; and rose-bushes bend under their loads of red and white roses. Can you tell now, by your geography, why the season is so much earlier here than at Essex — especially considering what a handsome place Essex is, and what a good school you go to, and how much pains cousin M—— takes with you? You must answer this question in your letter to me, and think all about it yourself.

"I hope you will write to your mother and the girls often. They all love you dearly, and want to hear from you every day. Besides, it does one good to sit down and write home. It fills his heart full of affection and of pleasant recollections. . . . . Write me soon.

"Your affectionate father,

"RUFUS CHOATE."

TO RUFUS CHOATE, JR.

"MY DEAR RUFUS, — Your mother and dear sisters have you so far away, that I want to put my own arm around your neck, and having whispered a little in your ear, give you a kiss. I hope, first, that you are good; and next that you are well and studious, and among the best scholars. If that is so, I am willing you should play every day, after, or out of, school, till the blood is ready to burst from your cheeks. There

is a place or two, according to my recollections of your time of life, in the lane, where real, good, solid satisfaction, in the way of play, may be had. But I do earnestly hope to hear a great account of your books and progress when I get home. Love cousin M——, and all your school and playmates, and love the studies which will make you wise, useful, and happy, when there shall be no blood at all to be seen in your cheeks or lips.

"Your explanation of the greater warmth of weather here than at Essex, is all right. Give me the sun of Essex, however, I say, for all this. One half hour, tell grandmother, under those cherished button-woods, is worth a month under these insufferable fervors. . . . . I hope I shall get home in a month. Be busy, affectionate, obedient, my dear, only boy. Your father,

"RUFUS CHOATE."

Every letter to his children at this period is replete with affection, and kind suggestions and hopes. "Do not play with bad boys. Love good ones. Love your teacher, and see if you cannot go to the head of your own age of boys. . . . . I expect to find all of you grown. If I find the beautiful feelings, and bright minds grown too, I shall leap for joy. . . . . Give my love to all. Tell only truth; and be just, kind, and courageous. Good-by, my darling boy."

And again to two of his children: "I hope you are well, obedient, affectionate, and studious. You must learn to take care of yourselves alone, — your clothes, books, the place you sleep in, and of all your ways. Be pleasant, brave, and fond of books. I want to hear that you are both good scholars, but chiefly that you are true, honest, and kind. . . . . Give best love to all at Essex. Go, especially, and give my love to grandmother, who was the best of mothers to your father, and help her all you can."

The next session of Congress opened with considerable apprehension and distrust in all minds. The Whigs had broken with the President, and, though powerful, were disheartened, and unable to accomplish their cherished purposes. At the same time, questions of great public importance were pressing upon the attention of the government. During the session Mr. Choate spoke on the Bankrupt Law, in favor of Mr. Clay's Resolution for Retrenchment and Reform, on the Naval Appropriation Bill, on the Tariff, and on the Bill to provide further Remedial Justice in the Courts of the United States. This last named bill was introduced by Mr. Berrien,

then Chairman of the Judiciary Committee, in order to meet such cases as that of McLeod's, by extending the jurisdiction of the United States Courts. It was regarded as of very great consequence, so nearly had the nation been plunged into war by proceedings for which the general government could have no responsibility. The bill was supported by the Whigs generally, and opposed by the Democrats, under the lead of Mr. Buchanan. Mr. Choate supported it on the two grounds of constitutionality and of expediency, and closed a generous and statesmanlike yet severe argument in these words: — "The honorable senator is against your jurisdiction in all forms and in all stages. Sir, I cannot concur with him. I would assert the jurisdiction, on the contrary, on the same grand, general reason for which it was given to you. It was given as a means of enabling you to preserve honorable peace, or to secure the next best thing, a just war — a war into which we may carry the sympathies, and the praise, and the assistance of the world. Accept and exert it for these great ends. Do not be deterred from doing so, and from doing so now, by what the honorable senator so many times repeated to you, that negotiations are pending with England; that she has insulted and menaced you, and withheld reparation, and withheld apology; and that therefore, the passage of the bill, at this moment, would be an unmanly and unseasonable courtesy or concession to her. How much England knows or cares about the passage of this bill; what new reason it may afford to the Foreign Quarterly Review for predicting the approach of his monarchical millennium in America, we need not, I believe no one here need, know or care. But does it mark unmanly fear of England, an unmanly haste to propitiate her good-will, because I would commit the quiet and the glory of my country to you? Where should the peace of the nation repose but beneath the folds of the nation's flag? Do not fear either, that you are about to undervalue the learning, abilities, and integrity of the State tribunals. Sir, my whole life has been a constant experience of their learning, abilities, and integrity; but I do not conceive that I distrust or disparage them, when I have the honor to agree with the Constitution itself, that yours are the hands to hold the mighty issues of peace and war.

"Mr. President, how strikingly all things, and every passing hour, illustrate the wisdom of those great men who looked to the Union,—the Union under a general government, for the preservation of peace, at home and abroad, between us and the world—among the States and in each State. Turn your eyes eastward and northward, and see how this vast, but restrained and parental central power holds at rest a thousand spirits, a thousand elements of strife! There is Maine. How long would it be, if she were independent, before her hardy and gallant children would pour themselves over the disputed territory like the flakes of her own snow-storms? How long, if New York were so, before that tumultuous frontier would blaze with ten thousand 'bale-fires?' Our own beautiful and beloved Rhode Island herself, with which the Senator rebukes you for interfering,—is it not happy even for her that her star, instead of shining alone and apart in the sky, blends its light with so many kindred rays, whose influence may save it from shooting madly from its sphere?

"The aspect which our United America turns upon foreign nations, the aspect which the Constitution designs she shall turn on them, the guardian of our honor, the guardian of our peace, is, after all, her grandest and her fairest aspect. We have a right to be proud when we look on that. Happy and free empress mother of States themselves free, unagitated by the passions, unmoved by the dissensions of any one of them, she watches the rights and fame of all, and reposing, secure and serene, among the mountain summits of her freedom, she holds in one hand the fair olive-branch of peace, and in the other the thunderbolt and meteor flag of reluctant and rightful war. There may she sit forever; the stars of union upon her brow, the rock of independence beneath her feet! Mr. President, it is because this bill seems to me well calculated to accomplish one of the chief original ends of the Constitution that it has my hearty support."

A few extracts from private letters will indicate some of the other topics which interested him during the session. January 24th he wrote to Mr. Sumner: "Lord Morpeth is come and pleases universally. He attends our atrocious spectacles in the House with professional relish." And a little later: "I have received and transmitted your papers for Lieber; and

read the D. A.[1] with edification and assent. We are wrong. Lieber sent me a strong paper on the same subject. He is the most fertile, indomitable, unsleeping, combative, and propagandizing person of his race. I have bought 'Longfellow,' and am glad to hear of his run. Politics are unpromising, but better than last session. The *juste milieu* will vindicate itself. With much love to G. S. H.

"Yours faithfully,

"R. CHOATE."

On the 19th February he writes again: "My dear Sumner, I hoped to be able before now to tell you what can be done for that elegant and tuneful Professor. No *certain* thing do I get yet, but I trust soon to have. It is the age of patronage of genius you see. *Regnat Apollo*, as one may say. . . . . That was a most rich speech of Hillard's, as is all his speaking, whether to listening crowds, or to appreciating circles of you and me.[2] . . . . . How cheerful, genial, and *fragrant*, as it were, are our politics! What serried files of armed men, shoulder to shoulder, keeping time to the music of duty and glory, animated by a single soul, are the Whigs! But this delicious winter bears us *swiftly* through it all, and the sun of to-day lights up the Potomac and burns with the flush and glory of June. Dexter says this city reminds one of *Rome*. I suppose he meant in its spaces, solitudes, quiet, vices, etc., — though the surrounding country is undoubtedly beautiful. Love to Hillard. Lieber writes in Latin. I mean to answer him in any tongue whatever he chooses to speak, and for that purpose must break off and go at him.

"Truly yours,

"R. CHOATE."

TO CHARLES SUMNER, ESQ.

"Washington, June 5, 1842.

"MY DEAR SIR, — I mourn that I cannot get you yet a copy of the Opinions, otherwise called *Old Fields*.[3] I am in collusion with Tims, how-

[1] The subject of searching vessels on the high seas was then widely discussed, and this refers to some articles in the "Boston Daily Advertiser," on the right and necessity, in certain cases, of verifying a suspected flag.

[2] A speech of Mr. Hillard's at a dinner given to Mr. Dickens.

[3] Opinions of the Attorney-General, with reference to which Mr. Sumner had quoted the verses of Chaucer, — "Out of the old fields cometh all this new corn," &c.

ever; if man can do it Tims is he. I have never got one for myself, or I would send that. I send you my speech, so that if you do not get Ann Page, you however have the great lubberly boy. . . . . Lord Ashburton is a most interesting man, quick, cheerful, graceful-minded, keen, and prudent. The three young men [his suite] are also clever; *young* rather; one a whig, all lovers of Lord Morpeth. Maine comes with such exacting purposes, that between us, I doubt . . . .

"Yours truly,
"R. CHOATE."

Later in the summer he writes again in the vein of humor and playfulness which so generally characterized his familiar intercourse: —

"Washington, 10 P. M.

"DEAR SUMNER AND HILLARD, — I have addressed myself with tears of entreaty to the Secretary, and if no hidden snag, or planter, lies under the muddy flood, we shall scull the Dr. into port. There, as Dr. Watts says, he may

—— 'Sit and sing himself away,'

or exclaim —

'Spes et fortuna, valete — inveni nunc portum,
Lusistis me satis — ludite nunc alios' —

which is from the Greek, you know, in Dalzell's Græc. Majora, vol. 2d, — and closes some editions of Gil Blas!

"The voting on the Ashburton Treaty at 9 at night — seats full, — lights lighted, — hall as still as death — was not without *grandness*. But why speak of this to the *poco-curantes* of that denationalized Boston and Massachusetts. Yours truly,
"R. CHOATE."

Of all the questions of foreign policy none were more pressing, on the accession of the Whigs to the government, than the North-Eastern boundary. Collisions had already taken place on the border. British regiments had been sent into Canada; volunteers were enrolled in Maine. The question seemed hopelessly complicated, and both parties were apparently immovable in their opinions. On assuming the Department of State, Mr. Webster at once informed the British government of our willingness to renew negotiations, and shortly after the accession of Sir Robert Peel and Lord Aberdeen to power, Lord Ashburton was sent as a special envoy to the United States, with the hope of settling the dangerous dispute. On both sides were high purposes, a willing mind, and a determination, if possible, to settle the difficulty to the advantage of both parties. This purpose was finally accom-

plished; the treaty was made and signed by the respective Plenipotentiaries on the 9th August, 1842. It was submitted to the Senate on the 11th of August, and finally ratified on the 20th of the same month by a vote of 39 to 9. It determined the North-Eastern boundary; settled the mode of proceeding for the suppression of the African Slave-Trade; and agreed to the extradition of criminals fugitive from justice, in certain well-defined cases. At the same time the irritating questions connected with the destruction of The Caroline, the mutiny and final liberation of the slaves on board The Creole, and the right of impressment, were put at rest by correspondence and mutual understanding. Harmony was thus restored between two great nations; the possibility of border forces along the Canadian boundary greatly diminished; and the rights of the flag upon the high seas rendered more exact and definite. The question of the boundary of Oregon was left undetermined, because the arrangement of that question seemed not to be practicable. That a treaty of so much consequence, affecting questions that had so long interested and irritated the nations, should meet the approbation of every senator, was not to be expected. It was assailed at great length, and with what might be thought intemperate violence, by Mr. Benton, when discussed in secret session, and subsequently during the next session of Congress, when the bill for the occupation of Oregon was under debate. He found fault with what it did and with what it omitted to do, with the spirit and patriotism of its American negotiator, Mr. Webster, and with his resoluteness and intelligence. The treaty was defended with a spirit and ability equal to the occasion. Mr. Choate spoke three times. One only of these speeches has been preserved, that delivered on the 3d February 1843, during the debate on the bill for the occupation and settlement of the Oregon Territory.

Congress adjourned on the 3d of March, and Mr. Choate returned to the labors of his profession in Boston.

Since Mr. Choate's death there have been found among his papers, fragments of journals and translations of portions of the ancient classics. Although these were prepared solely for his own benefit, and the translations seem never to have been revised, it has been thought that no means accessible to us

can so fully exhibit some of his mental traits, the methods by which he wrought, and the results which he gained. Parts of the journals are accordingly inserted in their chronological order, and extracts from the translations, if these volumes are not too crowded, will be found in the appendix.

LEAVES OF AN IMPERFECT JOURNAL OF READINGS AND ACTIONS.

"*May*, 1843. — I can see very clearly, that an hour a day might with manifold and rich usefulness be employed upon a journal. Such a journal written with attention to language and style, would be a very tolerable substitute for the most stimulating and most improving of the disciplinary and educational exercises, careful composition. It should not merely enumerate the books looked into, and the professional and other labors performed; but it should embrace a digest, or at least an index of subjects of what I read; some thoughts suggested by my reading; something to evince that an acquisition has been made, a hint communicated; a step taken in the culture of the immortal, intellectual, and moral nature; a translation perhaps, or other effort of laborious writing; a faithful and severe judgment on the intellectual and the moral quality of all I shall have done; the failure, the success, and the lessons of both. Thus conducted, it would surely be greatly useful. Can I keep such an one? *Prorsus ignoro — prorsus dubito. Spero tamen.* The difficulty has been heretofore that I took too little time for it. I regarded it less as an agent, and a labor of useful influence, in and by itself, — in and by what it exacted, of introspection, memory, revisal of knowledge and of trains of thought; less by the incumbent work of taste, expression, accuracy, which it itself imposed and constituted, than as a mere bald and shrewd enumeration of labors, processes, and other useful or influential things somewhere else, and before undergone. Better write on it but once a week, than so misconceive and impair its uses.

"I do not know any other method of beginning to realize what I somewhat vaguely, yet sanguinely, hope from my *improved* journal, than by proceeding to work on it at once, and regularly for every hour, for every half hour of reading which I can snatch from business and the law. I have a little course for instance of authors whom I read for English words and thoughts, and to keep up my Greek, Latin, and French. Let me after finishing my day's little work of each, record here what I have read, with some observation or some version. I am sure the time I now give to one would be better spent, if equally divided between him and this journal. I am not to forget, that I am, and must be, if I would live, a student of professional forensic rhetoric. I grow old. My fate requires, appoints, that I do so διδασκόμενος — *arte rhetoricâ*.[1] A wide and anxious survey of that art and that science teaches me that careful constant writing is the parent of ripe speech. It has no other. But that writing must be always rhetorical writing, that is, such as might in some parts of some speech be uttered to a listening audience. It is to be composed as in and for the presence of an audience. So it is to be intelligible, perspicuous,

[1] Γηράσκω δ' αἰεὶ πολλὰ διδασκόμενος, — a fragment from Solon.

pointed, terse, with image, epithet, turn, advancing and impulsive, full of *generalizations, maxims*, illustrating the sayings of the wise. I have written enough to satisfy me I cannot keep this journal; yet seriously do I mean to try. Those I love best may read, smile, or weep when I am dead, at such a record of lofty design and meagre achievement! yet they will recognize a spirit that 'endeavored well.'

"*13th May.* Read in Bloom. G. T. Matth. 3 c. 11–17, and notes, carefully verifying the references. I believe I concur with him in every observation. *Qu. tamen* 1. If *με* is not the object of *ἄφες* as *αὐτὸν* is of *δακηρὸν* and of *διεκώλυεν*? 2. Why does not *εὐθὺς* qualify *ἀνέβη*? Yet I think the sense is, that the whole series of incidents — the ascent from the water, and the opening of the heavens, and the vision, and the voice — followed in the order I have enumerated *fast* and *close* upon the consummation of the Baptism.

"3. That a miracle is described, the apparent opening of the heavens, so as to bring to the eye of *some one*, as from above, beyond, within, the image, form, symbol, the Holy Spirit, descending, with the hovering motion of the dove; and that an articulate proclamation of the Sonship, and the love and the complacency indulged towards that son, by the Invisible speaking from on high, is asserted by the evangelist, no one can doubt.

"4. Does Æn. 5, 216–17, describe a descent or a hovering at all, or only contrast a progressive horizontal motion, caused and attended by the moving of the wings, and a similar motion with *the wings at rest*? *Semble* the latter only.

"I read the French of the same verses, and the German, but the latter without profit.

"I reviewed — for I will not confess I had never read — Quintilian's first chap. of book 10, *de copia verborum*, Rollin's Latin edition. I think I do not over-estimate the transcendent value and power, as an instrument of persuasive speech, of what may be comprehensively described as the *best* language — that which is the very best suited to the exact demand of the discourse just where it is employed. Every word in the language, by turns, and in the circle of revolving oratorical exigencies and tasks, becomes precisely the right *one word*, and must be used, with one exception, that of immodest ones. This is Quintilian's remark, [§ 9] exaggerated — *modo eorum qui art. præc. tradunt* — yet asserting a general truth of great value, the immense importance of a strong hold, and a capacity of easy employment of all the parts of the language — the homely, the colloquial, the trite, as well as the lofty, the refined, the ornamented, and the artistical propriety of a resolute interchange or transition from one to another.

"How such a language — such an English — is to be attained, is plain. It is by reading and by hearing, — reading the best books, hearing the most accomplished speakers. Some useful hints how to read and how to hear, I gather from this excellent teacher, and verify by my own experience, and accommodate to my own case.

"I have been long in the practice of reading daily some first class English writer, chiefly for the *copia verborum*, to avoid sinking into cheap and bald fluency, to give elevation, energy, sonorousness, and refinement,

to my vocabulary. Yet with this object I would unite other and higher objects, — the acquisition of things, — taste, criticism, facts of biography, images, sentiments. Johnson's Poets happens just now to be my book, and I have just read his life and judgment of Waller.

"17*th May*. The review of this arduous and responsible professional labor suggests a reflection or two. I am not conscious of having pressed any consideration farther than I ought to have done, although the entire effort may have seemed an intense and overwrought one. Guilty, she certainly appears, upon the proof to have been; and I can discern no trace of subornation or manufacture of evidence. God forgive the suborner and the perjured, if it be so! I could and should have prepared my argument beforehand and with more allusion, illustration, and finish. Topics, principles of evidence, standards of probability, quotations, might have been much more copiously accumulated and distributed. There should have been less said — a better peroration, more dignity, and a general better phraseology.

"I remark a disinclination to cross-examine, which I must *at once check*. More discussion of the importance of guarding the purity of married life — the sufferings of the husband — a passage or two from Erskine — should have been set off against the passionate clamor for pity to the respondent. Whole days of opportunity of preparation stupidly lost.

"I have read nothing since Sunday until to-day; and to-day only a page of Greenleaf on Evidence, and a half-dozen lines of Greek, Latin, and French. But I prepared the case of the Ipswich Man. Co. My Greek was the fifth book of the Odyssey — 163–170 — the extorted, unanticipated, and mysterious communication — unanticipated by, and mysterious to, him — of Calypso to Ulysses on the sea-shore, in which she bids him dry his tears, and cease to consume his life; for at length she will consent to assist his departure from the endearments and the charms whose spell on his passions was forever broken. There is no peevishness or pettishness in her words or manner; but pity, and the bestowment generously of what she knows and feels he will receive as the one most comprehensive and precious object of desire.

"*Saturday, 3d June*. — The week, which closes to-day, has not been one of great labor or of much improvement. I discussed the case of Allen and the Corporation of Essex, under the pressure of ill health; and I have read and digested a half-dozen pages of Greenleaf on Evidence, and as many of Story on the Dissolution of Partnership. Other studies of easier pursuit, nor wholly useless — if studies I may denominate them — I have remembered in those spaces of time which one can always command, though few employ. The pregnant pages in which Tacitus reports the conflicting judgments expressed by the Romans concerning Augustus, upon the day of his funeral; and paints the scene in the Senate, when that body solicited Tiberius to assume the imperial name and power; the timid or politic urgency of the solicitation; the solicitation of prayers; the dignified, distrusted, unintelligible terms of the dissembler's reply; his proposition to consent to undertake a part of the imperial function, and the incautious or the subtle inquiry with which Gallus for a moment spoiled the acting of the player in the iron mask —

'*what part* he would take' — I have read for Latin. They include pp. 14–17, in the edition of Ernesti and Oberlin. Observe, Tacitus, in his own person paints no character of Augustus. More dramatically he supposes a multitude to witness the funeral, and then to speak among themselves of his character and actions. By the intelligent, he says, a divided opinion of his life was expressed. It was applauded by some; it was arraigned by others. The former found in filial piety, and in those necessities of state which silenced and displaced and superseded the laws, the only motives that compelled him to take up the arms of civil war; arms which can neither be acquired nor wielded, by the exercise of the purer and nobler arts of policy. While he had his father's murderers to punish, he conceded a large measure of supreme power to Antony and to Lepidus; but after the latter had grown an old man by sloth, and the former had become debauched and ruined by self-indulgence, there remained no remedy for his distracted country but the government of one man. Yet that government was wielded, not under the name of king or of dictator, but under that of prince. It had been illustrated, too, by policy and fortune. The empire had been fenced and guarded on all sides by great rivers and the sea. Legions, fleets, provinces, however widely separated from each other, were connected by a system and order of intercommunication and correspondence. The rights of citizens had been guarded by the law; moderation and indulgence had been observed towards the allies. Rome itself had been decorated with taste and splendor. Here and there only, military force had been interposed, to the end that everywhere else there might be rest.

"I cannot to-day pursue the version farther. In Greek I have reached the two hundred and fifty-first line of the fifth Odyssey. Without preaching and talk by the poet, as in Fenelon's celebrated work, how the actions and speech of Ulysses show forth his tried, sagacious character. His suspicion of Calypso, and his exaction of an oath that she means fair in thus suddenly permitting him to go; his address in allowing the superiority of her charms to Penelope's, and putting forward rather the general passion for getting home, as his motive of action; his avowal that he is prepared to endure still more of the anger of God, having endured so much, mark the wary, much-suffering, and wise man, sailor, and soldier. I read in French a dissertation in the Memoirs of the Academie of Inscriptions, vol. 2; on the Chronology of the Odyssey; began one on Cicero's Discovery of the Tomb of Archimedes. For English I have read Johnson's Lives to the beginning of Dryden; Alison, a little; Antony and Cleopatra, a little; Quintilian's Chapters on Writing, and on Extempore Speech, I have read and re-read; but mean to-morrow to abridge and judge. I need a Facciolatus and a Stephens. Preserve me from such temptation. The first I must get; and so I close this Saturday.

"I propose now to present in a condensed view all the good sense in Quintilian's chapters on Writing, and on Extempore Speech. [Ch. I.] — He is treating of the means of acquiring copiousness of speech, and has disposed of the first of these means — the reading of good books — of authors or of orators. [Ch. III., § 1.] — 'This is a help from without. But of all the parts of *self-education*, the most laborious,

most useful, is writing. This, says Cicero, not extravagantly, best produces, and is emphatically the master of speech. [§ 2.] — Write then with as much pains as possible, and write as much as possible. In mental culture, as in the culture of the earth, the seed sown in the deepest furrow finds a more fruitful soil, is more securely cherished, and springs up in his time to more exuberant and healthful harvests. Without this discipline, the power and practice of extemporaneous speech will yield only an empty loquacity — only words born on the lips. [§ 3.] — In this discipline, deep down there are the roots, there the foundations; thence must the harvest shoot, thence the structure ascend; there is garnered up, as in a more sacred treasury, wealth for the supply of even unanticipated exactions. Thus, first of all, must we accumulate resources sufficient for the contests to which we are summoned, and inexhaustible by them. [§ 4.] — Nature herself will have no great things hastily formed; in the direct path to all beautiful and conspicuous achievement she heaps up difficulty; to the largest animal she appoints the longest sleep in the parent womb.

"'Two inquiries there are then: first how, next what we shall write. [§ 5.] I begin with the first, and urge that you compose with care, even if you compose ever so slowly. Seek for the best; do not eagerly and gladly lay hold on that which first offers itself; apply judgment to the crowd of thoughts and words with which your faculties of invention supply you; retain and set in their places those only which thus you deliberately approve. For of words and of things a choice is to be made, and to that end the weight of every one to be exactly ascertained.

"*Tuesday, 6th June.* — 'The taste of selection accomplished, that of collocation follows. Do not leave every word to occupy as a matter of course the exact spot where the order of time in which it occurs to you would place it; do not let the succession of their birth necessarily determine their relative position. Seek rather by variety of experiment and arrangement to attain the utmost power, and the utmost harmony of style. [§ 6.] The more successfully to accomplish this, practise the repeated reading over of what you have last written before you write another sentence. By this means a more perfect coherence of what follows with what precedes; a more coherent and connected succession of thought and of periods will be expected; and by this means too the glow of mental conception, which the labor of writing has cooled, will be kindled anew; and will, as it were, acquire fresh impetus by taking a few steps backward; as in the contest of leaping we frequently remark the competitors setting out to run at an increased distance from the point where they begin to leap, and thus precipitating themselves by the impulse of the race towards the bound at which they aim; as in darting the javelin we draw back the arm; and in shooting with the bow draw back its string.'

"I have written only this translation of Quintilian since Saturday. Professional engagements have hindered me. But I have carefully read a page or two of Johnson's Dryden, and a scene or two of Antony and Cleopatra every morning — marking any felicity or available peculiarity of phrase — have launched Ulysses from the isle of Calypso, and brought him in sight of Phœacia. Kept along in Tacitus, and am reading a pretty paper in the "Memoirs" on the old men of Homer. I

read Homer more easily and with more appreciation, though with no helps but Cowper and Donegan's Lexicon. Fox and Canning's Speeches are a more professional study, not useless, not negligently pursued. Alas, alas! there is no time to realize the dilating and burning idea of excellence and eloquence inspired by the great gallery of the immortals in which I walk!

"*24th June.* — I respire more freely in this pure air of a day of rest. Let me record a most happy method of legal study, by which I believe and feel that I am reviving my love of the law; enlarging my knowledge of it; and fitting myself, according to the precepts of the masters, for its forensic discussions. I can find, and have generally been able to find, an hour or two for legal reading beyond and beside cases already under investigation. That time and that reading I have lost, no matter how. I have adopted the plan of taking a volume, the last volume of Massachusetts Reports, and of making a full brief of an argument on every question in every case, examining all the authorities, finding others, and carefully composing an argument as well reasoned, as well expressed, as if I were going to-morrow to submit it to a bench of the first of jurists.[1] At the completion of each argument, I arrange the propositions investigated in my legal commonplace book, and index them. Already I remark renewed interest in legal investigations; renewed power of recalling, arranging, and adding to old acquisitions; increased activity and attention of mind; more thought; more effort; a deeper image on the memory; growing facility of expression. I confess delight too, in adapting thus the lessons of the great teachers of rhetoric to the study of the law and of legal eloquence.

"I resume Quintilian, p. 399. [§ 7.] 'Yet I deny not if the fair wind freshly blows, that the sails may all be spread to catch it. But have a care lest this surrender of yourself to the spontaneous and headlong course of your conceptions do not lead you astray. All our first thoughts, in the moment of their birth, please us, or we should never write. [§ 8.] But we must come to our critical senses again; and coolly revise and reconstruct the productions of this suspicious and deceitful facility. Thus we have heard that Sallust wrote; and indeed his work itself reveals the labor. Varius tells us that Virgil too composed but very few verses in a day.

"[§ 9.] 'The condition of the speaker is a different one from that of the author. It is therefore that I prescribe, for the first, preparatory written exercises of the future speaker, that he dwell so long and so solicitously upon his task. Consider that the first great attainment to be achieved is, excellence of writing. Use will confer celerity. By slow degrees matter will more easily present itself; words will answer to it; style will follow; all things as in a well-ordered household, will know, will perform their functions. [§ 10.] It is not by writing rapidly that you come to write well, but by writing well you come to write rapidly.' Thus far Quintilian.

"I read, besides my *lessons*, the Temptation in Matthew, Mark, and Luke, in the Greek; and then that grand and grave poem which Milton has

[1] This plan he continued down to the end of his life.

built upon those few and awful verses, Paradise Regained. I recognize and profoundly venerate the vast poetical luminary 'in this more pleasing light, shadowy.' Epic sublimity the subject excludes; the anxious and changeful interests of the drama are not there; it suggests an occasional recollection of the Book of Job, but how far short of its pathos, its agencies, its voices of human sorrow and doubt and curiosity; and its occasional unapproachable grandeur; yet it is of the most sustained elegance of expression; it is strewn and burning with the pearl and gold of the richest and loftiest and best-instructed of human imaginations; it is *a mine — a magazine*, 'horrent,' blazing with all weapons of the most exquisite rhetoric; with all the celestial panoply of truth, reason, wisdom, duty."

CHAPTER IV.

1843–1844.

Address before the New England Society of New York — Letter to Professor Bush — Letters to Charles Sumner — Letter to his Daughters — Speech on Oregon — First Speech on the Tariff — Second Speech in Reply to Mr. M'Duffee — Journal.

THE twenty-eighth Congress met on the 4th of December, 1843, and Mr. Choate removed to Washington for the winter. In the latter part of the month he visited New York for the purpose of delivering the annual oration before the New England Society of that city. The theme suggested by the occasion was one which seemed always to have a fresh interest for him. He loved to dwell upon it. In lectures and addresses he had many times spoken on the Puritan character and history, and never without the deepest sympathy and heart-stirring emotion. On this occasion he presented the Pilgrims, their Age and their Acts, as constituting a real and true heroic period in the history of this republic. "We have," he said, "a specific duty to perform. We would speak of certain valiant, good, and peculiar men, our fathers. We would wipe the dust from a few old, plain, noble urns. We would shun husky disquisitions, irrelevant novelties, and small display; would recall rather and merely the forms and lineaments of the heroic dead, — forms and features which the grave has not changed, — over which the grave has no power — robed with the vestments and radiant with the hues of an assured immortality." During his discussion of the general subject he spoke of the influences affecting the minds of the disciples of the Reformation in England, during the residence of many of them in Geneva. Touching lightly upon the impression of the material grandeur and beauty of Switzerland, he turned to the moral agents, the politics, and the ecclesiastical influences to which the exiles were exposed. "In the giant hand of

guardian mountains, on the banks of a lake lovelier than a dream of the Faëry land; in a valley which might seem hollowed out to enclose the last home of liberty, there smiled an independent, peaceful, law-abiding, well-governed, and prosperous Commonwealth. There was a State without king or nobles; there was a church without a bishop; there was a people governed by grave magistrates which it had elected, and equal laws which it had framed." These phrases, "a State without a king," "a church without a bishop," were at once caught up and spread through the land. They became the burden of popular songs, and led to a noteworthy discussion of the principles of church government between two eminent divines, — an Episcopalian and a Presbyterian, — of New York.

The entire address was received with the greatest delight and enthusiasm. A member of the New York bar, somewhat advanced in years, and cool in his temperament, said "that it was different *in kind* from anything they ever heard in New York before. It came upon them like a series of electric shocks, and they could not keep their seats, but kept clapping and applauding without being conscious of it."

On returning to Washington he wrote to his friend Professor Bush, who had recently adopted the views of Swedenborg. Although of decided theological opinions himself, Mr. Choate rarely entered upon a polemical discussion of religious topics, never indeed but with those intimate friends with whom he sympathized most closely. About himself he never chose to talk, and those who indiscreetly tried to probe his feelings, would generally find themselves turned aside with what would seem the most consummate art, were it not done so naturally, and with such suavity and gentleness. Hence in declining a discussion, and in saying a kind word of the opinions of others, he sometimes seemed to those who did not know him, indifferent as to his own.

To Professor George Bush.

"Washington, January 7, 1844.

"My dear Mr. Bush,—I grieve that I did not see you at New York, were it but to have united in a momentary objurgation of all celebrations on wet days: though I should have been still more delighted to sit down and charm out of their cells of sleep about a million of memories. But

it did not occur to me that you could possibly be present,[1] and I had not an instant to go out to call on you. I have known, say half a dozen very able men, who hold Swedenborg just as you do. Theophilus Parsons of Boston is one, who is a man of genius. For my part, I know him not, and have a timorous disinclination to being shocked, waked, or stunned out of the 'trivial fond' prejudices and implicit takings up of a whole life. But it is your privilege to be a seeker for truth, with pure aims and a most appreciating eye and spirit. *Sit mea anima cum tuâ.*

"Yours truly,
"R. CHOATE."

Beside the political business of the session, Mr. Choate was much interested in a law case of great importance, that of Massachusetts *v.* Rhode Island. Mr. Charles Sumner acted as counsel with him in obtaining and preparing the local proofs. The following letter refers to that case: —

TO CHARLES SUMNER, ESQ.

"MY DEAR SUMNER, — I thank you for the documents. The cause is assigned for the 20th, and being, as Mr. Justice Catron expressly declared, a case of "Sovereign States," it has, before this tribunal of strict constructionists, a terrified and implicit precedence. Great swelling words of prescription ought to be spoken. For the rest, I see no great fertility, or *heights* in it. Most hurriedly yours,

"Saturday, 5 P. M. R. CHOATE."

TO CHARLES SUMNER, ESQ.

"MY DEAR SUMNER, — I have written by this mail to Mr. Palfrey, Secretary of State, to send me instantly certain papers for Massachusetts *v.* Rhode Island. May I entreat you to go as soon as possible to the State House, see my letter, and aid and urge its objects. You will know the what and where, and *a mail* saved is all one as it were a kingdom for a horse.

"I thank you for your views, — excellent and seasonable. I will speak them to the court so that they shall never know anything else again as long as they live. Please be most prompt. Yours,

"R. CHOATE.

"15th Feb. The case is for the 20th!!"

TO CHARLES SUMNER, ESQ.

"Saturday, Feb. 17, 1844.

"MY DEAR SIR, — To my horror and annoyance, the court has just continued our cause to the next term! The counsel of Rhode Island

[1] At the New England Festival.

moved it yesterday, assigning for cause that the court was not full; that the Chief Justice could not sit by reason of ill health; Mr. Justice Story did not sit,[1] and there was a vacancy on the bench. The court was therefore reduced to six judges. We opposed the motion.

"To-day Mr. Justice M'Lean said that on interchanging views they found that *three of the six* who would try it, have formally, on the argument or the plea, come to an opinion in favor of Massachusetts, and that therefore they thought it not proper to proceed. If Rhode Island should fail, he suggested, she might have cause of dissatisfaction.

"I regret this result, on all accounts, and especially that the constant preparatory labors of a month, are for the present wholly lost. I had actually withdrawn from the Senate Chamber to make up this argument, which may now never be of any use to anybody. . . . .

"Yours,

"R. CHOATE."

To CHARLES SUMNER, ESQ.

"Feb. 1844.

"MY DEAR SUMNER, — All the papers came safe, except as yet the *whole volume* which is to come by Harnden. I shall print the useful, — keep all safely — with the entire file. Some of them are very good. The continuance of the cause rendered it partially to be regretted that so much trouble was given. But it is better to close the printing at once.

"Please thank Dr. Palfrey, and dry his and Mr. Felt's tears. I knew it would be like defending a city by holding up upon the walls against darts and catapults, little children, images of gods, cats, dogs, onions, and all other Egyptian *theogonics*, — but better so than to be taken.

"Yours truly,

"R. CHOATE."

To CHARLES SUMNER, ESQ.

[No date.]

"DEAR SUMNER, — I have just had your letter read to me on a half-sick bed, and get up redolent of magnesia and roasted apples, to embrace you for your Burkeism generally, and for your extracts and references. It is odd that I have, on my last year's brief, a passage or two from him on that very topic which he appreciates so profoundly, but am most happy to add yours. By the way, — I always admired that very letter in Prior, if it is the same.

"I hope you review Burke in the N. A.,[2] though I have not got it and you do not say so. Mind that he is the fourth Englishman, — Shakspeare, Bacon, Milton, Burke. I hope you take one hundred pages for the article. Compare, contrast, with Cicero, — both knowing all things, — but God knows where to end on Burke. No Englishman or countryman of ours has the least appreciation of Burke. The Whigs never forgave the last eight or ten years of that life of glory, and the Tories never forgave what preceded; and we poor, unidealized democrats, do not understand

[1] Because belonging to Massachusetts. [2] North American Review.

his marvellous English, universal wisdom, illuminated, omniscient mind, and are afraid of his principles. What coxcombical rascal is it that thinks Bolingbroke a better writer? Take page by page the allusions, the felicities, the immortalities of truth, variety, reason, height, depth, everything, — Bolingbroke is a voluble prater to Burke!

"Amplify on his letter in reply to the Duke of Bedford. How mournful, melodious, Cassandra-like! Out of Burke might be cut 50 Mackintoshes, 175 Macaulays, 40 Jeffreys, and 250 Sir Robert Peels, and leave him greater than Pitt and Fox together.

"I seem to suppose your article is not written, — as I hope it is. God bless you. Yours truly, R. C."

To his Daughters.

"My dear Daughters Three, — I owe you so many letters, that I know not how to begin to pay. I thought of three different letters, — one to each, — but I am so dreadfully busy that I could not achieve such a thing; so I put my arms around you one and all, and make one kiss serve. Sarah's conundrum is *tres belle* and *tres fine*, but thrice *tres easy*. Is it not the letter 'A?'

"Picciola is so famous and fine that I am glad you like it and find it easier. I am reading French law-books to prepare for a case. Dear Minnie writes a pretty short letter. I hope the girls are no longer × to her as she says. Be good, sober girls, and help your mother in all her cares and works.

"I am awfully lonesome. But I study quite well, and am preparing to argue a great cause.

"It is extremely cold. Write each day a full account of its studies, its events, its joys and sorrows; and any new ideas you have acquired.

"Take excellent care of my books. Do not let anything be lost.

"Coleridge I have; but I don't think you would understand it. Try however. Kiss your dear mother for me.

"Your Affectionate Father."

Mr. Choate was always interested in naval affairs, and exerted himself during this session to secure a suitable indemnity for the officers and seamen (or their widows and orphans), who lost their property by wreck of United States vessels of war.

Another question received still more attention.

On the 9th of January, 1844, Mr. Semple of Illinois introduced a resolution requesting the President to give notice to the British Government of a desire on the part of the United States to terminate the treaty allowing the joint occupation of the territory of Oregon. Mr. Choate opposed the resolution, because negotiation on the subject had already been invited, and to pass the resolution would only impede the

efforts of plenipotentiaries, while it imperilled the interests of the United States, and looked towards a declaration of war. These views in substance were maintained by the Whigs generally. They were opposed by the opposite party, and by no one more ably than by Mr. Buchanan, who directed his argument mainly against the speech of Mr. Choate. To this Mr. Choate made a reply on the 19th of March, expanding and enforcing his previous argument. As this speech will be found in its proper place in these volumes, it is not necessary to dwell upon it further. Two days after its delivery the resolution was rejected by a vote of twenty-eight to eighteen.

There was probably no subject which awakened a deeper interest during this session, or called out a greater amount of talent in discussion than the tariff. Soon after the meeting of Congress Mr. M'Duffie asked leave to introduce a bill to revive the tariff of 1833. On this more than twenty senators, the leaders and veterans of that august body, spoke at different times, most of them with elaborate and formal argument, and some of them more than once. Mr. Choate addressed the Senate first on the 13th and 15th of April, in an exhaustive historical discussion of the early tariffs, especially showing that that of 1799 was essentially a tariff of protection, and deriving from this a general argument in favor of a protective policy; enlivening the necessarily dry enumeration of individual opinions, and the details of an old subject, by occasional pleasantry, and sometimes by high and fervid eloquence. Mr. Benton had spoken of the evils of an irregular policy. "Perhaps," replied Mr. Choate, "I might not entirely concur with the distinguished senator from Missouri, in his estimate of the magnitude of the evil. An evil it no doubt is. Sometimes, in some circumstances, irregularity would be an intolerable one. In the case he puts, of a balloon in the air, 'now bursting with distention, now collapsing from depletion,' it would be greatly inconvenient. But all greatness is irregular. All irregularity is not defect, is not ruin. Take a different illustration from that of the balloon. Take the New England climate in summer; you would think the world was coming to an end. Certain recent heresies on that subject may have had a natural origin there. Cold to-day, hot to-morrow; mercury at eighty

degrees in the morning, with a wind at south-west, and in three hours more a sea-turn, wind at east, a thick fog from the very bottom of the ocean, and a fall of forty degrees of Fahrenheit; now so dry as to kill all the beans in New Hampshire, then floods carrying off the bridges and dams of the Penobscot and Connecticut; snow in Portsmouth in July, and the next day a man and a yoke of oxen killed by lightning in Rhode Island, — you would think the world was twenty times coming to an end! But I don't know how it is; we go along; the early and the latter rain falls each in his season; seed time and harvest do not fail; the sixty days of hot corn weather are pretty sure to be measured out to us; the Indian summer with its bland south-west and mitigated sunshine brings all up; and on the twenty-fifth of November, or thereabout, being Thursday, three millions of grateful people, in meeting-houses, or around the family board, give thanks for a year of health, plenty, and happiness. All irregularity, whatever the cause, is not defect nor ruin."

He closed with a word for Massachusetts, which had been assailed for her opinions. "Permit me to say, Sir, that you must take the States of America as you find them. All of them have their peculiarities; all have their traits; all have their histories, traditions, characters. They had them before they came into the Union; they will have them after.

"Rome in Tiber melts, and the wide arch of the ranged empire falls."

South Carolina has hers; Massachusetts has hers. She will continue to think, speak, print, just what she pleases, on every subject that may interest the patriot, the moralist, the Christian. But she will be true to the Constitution. She sat among the most affectionate at its cradle; she will follow — the saddest of the procession of sorrow — its hearse. She sometimes has stood for twenty years together in opposition to the general government. She cannot promise the implicit politics of some of her neighbors. I trust, however, that she will not be found in opposition to the next administration. I have heard that once her Senate refused to vote thanks for a victory for which her people had shed their blood. Sir, you must take the States as you find them; you must take her as you find her. Be just to her, and she will be a blessing to you.

She will sell to you at fair prices, and on liberal credits; she will buy of you when England and Canada and the West Indies and Ireland will not; she will buy your staples, and mould them into shapes of beauty and use, and send them abroad to represent your taste and your genius in the great fairs of civilization. Something thus she may do, to set upon your brow that crown of industrial glory to which 'the laurels that a Cæsar reaps are weeds.' More, Sir, more. Although she loves not war, nor any of its works, — although her interests, her morals, her intelligence, are all against it, — although she is with South Carolina, with all the South, on that ground, — yet, Sir, at the call of honor, at the call of liberty, if I have read her annals true, she will be found standing, where once she stood, side by side with you, on the darkened and perilous ridges of battle. Be just to her, — coldly, severely, constitutionally just, — and she will be a blessing to you."

The debate closed on the 31st of May. Mr. M'Duffie, as having opened the discussion, occupied two days in replying to his different opponents. His hopes of carrying the bill, if ever entertained, had long since vanished; and this may account in a measure for the unusual tone of his speech. The first portion of it was mainly addressed to Mr. Choate, and charged him with drawing very largely, if not exclusively, upon his imagination for his facts, and spinning and weaving a web "about the texture of a cobweb, and produced very much in the same way." He asserted that he gave isolated, if not garbled, extracts from the speeches of members of the first Congress, "picking up from Grub Street a worm-eaten pamphlet, with opinions that would form an appropriate argument for the leader of a band of highway robbers." "I confess, Mr. President," he went on to say, "that when I followed the honorable senator, hopping and skipping from legislative debates to catch-penny pamphlets, gathering alike from the flowers and the offal of history, I found it difficult to decide whether his labors more resembled those of a humming-bird in a flower garden, or a butterfly in a farm-yard." There was more of the same sort. The answer was immediate, and in a strain which Mr. Choate *in no other case* ever indulged in. "I must throw myself, Mr. President," he said, "on the indul-

gence of the Senate for a few minutes; and offer a few words of explanation, made necessary by the senator's comments upon a portion of the remarks which I had the honor to submit to you some six weeks ago. I do not propose to take notice of anything which he has said to other senators, nor of what I may call the general tariff matter of his speech. If others have been assailed, as I have been, by stale jests or new jests, stale argument or new argument, stale denunciations or fresh, they well know how to take care of themselves. I rejoice, too, to see that the protective policy of the country is taking excellent care of itself. One more such vote as another branch of Congress has just given, — one such election as will occupy, reward, and illustrate the approaching summer and autumn, — and the universal labor of America will be safe from the jokers of old jokes, or the jokers of new jokes. If then it be assailed by the arguments of men or the arms of rebels, it will, I hope, be quite able to defend itself against them also.

"Confining myself, then, Mr. President, altogether to the senator's notice of me, I must begin by saying that never in my life have I been so completely taken by surprise as by this day's exhibition, just closed, of good manners, sweet temper, courteous tone, fair statement of his opponent's position, masterly reply to it, excellent stories — all out of Joe Miller — extemporaneous jokes of six weeks' preparation, gleaned from race-ground, cockpit, and barn-yard, with which the senator from South Carolina has been favoring the Senate and amusing himself. I came into the Senate yesterday with the impression that the occasion was to be one of a sort of funereal character. I supposed that this bill of the senator, never fairly alive at all, but just by your good-nature admitted to have been so for a moment to make a tenancy by courtesy, and now confessedly dead, was to be buried. I came in, therefore, with composed countenance, appropriate meditations on the nothingness of men and things, and a fixed determination not to laugh, if I could help it. The honorable senator, I supposed, would pronounce the eulogy, and then an end. Even he, I expected, would come rather to bury than to praise. I thought it not improbable that we should hear the large and increasing majority of the American people proclaimed rob

bers and plunderers, — because that we hear from the same source so often, some threatening of nullification in old forms or new, some going to death on sugar, some 'purging of the passions by pity and terror,' — and then the ceremony would be closed and all be over.

"No tongue, then, can express the surprise with which I heard the honorable senator waste a full hour or more of the opening of his speech, and some precious health and strength, in slowly dealing out a succession of well-premeditated and smallish sarcasms on me. I was surprised, because I think the Senate will on all sides bear witness to what, under the very peculiar circumstances, I may be excused for calling to mind, — my own general habit of courtesy here. Not participating with excessive frequency in debate, nor wholly abstaining from it, I have sought always to observe the manner, as I claim to possess the sentiments, of a gentleman. In such a body as this, such a course is, indeed, no merit and no distinction. It is but an unconscious and general sense of the presence in which we speak.

"In the instance of this discussion of the tariff I am totally unaware of any departure from what I have made my habit. The senator from South Carolina, had, as he had a perfect right to do, introduced a proposition which, adopted, would sweep the sweet and cheerful surface of Massachusetts with as accomplished, with as consummated a desolation, as if fire and famine passed over it; and would permanently, and widely as I believed, and most disastrously, affect the great interests and all parts of the country. That proposition I opposed; debating it, however, in a general tone, and with particular expression of high respect for the abilities and motives of the honorable senator, and in a manner from first to last which could give no just offence to any man. I acknowledge my surprise, therefore, at the course of the senator's reply. But I feel no stronger emotion. I do not even remember all the good things at which his friends did him the kindness to smile. If he shall ever find occasion to say them over again, he will have, I presume, no difficulty in re-gathering them from the same jest-book, the same historian of Kilkenny, the same race-ground and cockpit and barn-yard, where he picked them up. They will serve his purpose a second time altogether as well as they have done

now." From this the speaker went on distinctly and cogently to reaffirm and prove his former position, respecting the law of 1789, not a new and original idea, as had been charged upon him, but held by Washington, Jefferson, Madison, and Dallas, "almost as old indeed as some of his opponent's newest jests and best stories."

Another charge he meets with peremptory denial. "What does the senator say next? Well, Sir, as far as I could make out a certain enormous and broken-winged metaphor, in which he slowly and painfully wrapped up his meaning rather than displayed it, beginning with his grandfather's regimentals, and ending — I am sure I could not see how — with a butterfly and a barn-yard — a Homeric metaphor — a *longue queue* — as well as I could take the sense of the figure, he meant to say that, in my former remarks, I contrived by selecting my own speakers, by picking and choosing from what they said, and by interpolations of my own, to give a garbled and unfair exposition of that great debate, its course and topics and interpretative effect. In fewer words, his metaphor went to accuse me of having confined myself to a culling out of a few paragraphs here and there from a debate of two or three hundred pages, and then assuming to pass off these as specimens of the whole; whereas they afforded no idea of it whatsoever. It is cheating by samples, I think, which the senator figuratively charges.

"Now, Sir, I deny this charge. I dare him to the proof. I challenge him; I challenge any man to produce a particle of proof of it. . . . . I meet the senator's bad metaphor by good plain English. The accusation or insinuation is totally groundless and totally unjust. Let the senator sustain it, if he can. There is the speech as it was delivered. He has at last found the debate which it attempted to digest. If it was not fully and fairly done, let him show it."

Beyond assertion he then went on to demonstrate the correctness of his position by ample quotations from impregnable documents, occasionally throwing in sentiments of a higher character, and closed with a quiet and beautiful appeal to the senators from Virginia and Georgia. Speaking of a proposition of Mr. M'Duffie, he says, to indicate its absurdity: "To show how willing he is to follow in the foot-

steps of the fathers, the senator tells us 'he will compound for the duties of 1789; nay, he will double them even.' Really, Sir, he is magnificent. Will he give us back the world and the age of 1789? Will he give us back our hours of infancy, the nurse, the ballad, the cradle? Will he take off our hands the cotton-mill and woollen-mill, and glass-house, and all the other various, refined, and sensitive labor and accumulation which we have to protect; and will he give us back the plain household, and far-inland manufactures and mechanical arts of the olden time? Will he give us back a Europe at war, and a sea whitened by the canvas of our thriving neutrality? Will he give us back the whole complex state of the case which made those duties sufficient then, without the reproduction of which they would be good for nothing now?

"Nay, Sir, not to be difficult, the senator 'would even be willing to give us the rates of the tariff of 1816.' This is rich also. He is perfectly willing to do almost anything which is less than enough. The labor of the country will not thank him for his tariff of 1816. That labor remembers perfectly well that, under that tariff, manufactures and mechanical arts fell down in four years from an annual production of over one hundred and fifty millions to an annual product of only six and thirty millions. . . . . .

"The honorable senator, applying himself diligently to the study of this debate of 1789, says that he finds that it turned very much on the molasses duty. This suggests to him, first, a good joke about 'switchel,' and then the graver historical assertion that 'Massachusetts has always been more sensitive about her own pockets, and less about her neighbors,' than any State in the Union.' Now, Sir, I should be half inclined to move a question with him upon the good taste of such a sally as that, if I did not greatly doubt whether he and I have any standards of taste in common. I should be inclined to intimate to him that such a sarcasm upon a State five hundred miles distant, which he does not represent, to which he is not responsible, is no very decisive proof of spirit or sense. He will judge whether such things have not a tendency to rankle in and alienate hearts that would love you, if you would permit them. Let us remember that we have a union and the affec-

tions of union to preserve, as well as an argument to conduct, a theory to maintain, or a jest, old or new, to indulge. . . . . It is a grief to the honorable senator to see protection sentiments spreading at the South.

'Sun! how I hate thy beams!'

I rejoice to see this, on the contrary. I should be glad of it, though it should raise up a manufacturing competitor in every State of the Union. I rejoice to perceive symptoms of a return to the homogeneous nature and harmonious views of an earlier and better day. I rejoice to see that moral and physical causes, the power of steam, the sober second thought of the people, are combining to counteract the effects of a wide domain, and local diversities, on opinion and on feeling. I am glad to see the whole nation reassembling, as it were — the West giving up, the South holding not back — reassembling on the vast and high table-land of the Union! To the Senator from Georgia, [Mr. Berrien,] and to the Senator from Virginia, [Mr. Rives,] who have so conspicuously contributed to this great result, I could almost presume to counsel, persevere as you have begun.

'Sic vobis itur ad astra!'

'That way,' in the vindication of this policy, in the spread of this light, in the enforcement of this truth — 'that way, glory lies.'"

With a brief reply and rejoinder, the debate here ended, and the question, on an amendment which brought the subject itself before the Senate, was decided, — twenty-five to eighteen, — against the resolution.

Congress adjourned on the 17th of June. The plans formed for study during the recess — to him, of course, no remission of labor — will be seen by his journal. The first few leaves have an earlier date.

"*December* 25, 1843. *Washington.* — It ought to be quite easy for me here, when not actually preparing for an immediate discussion, to command an hour for this journal, — in its plan altogether the best of the many I have attempted. An hour then I prescribe myself for this labor and this pleasure, and this help. I think it may be usually an hour of the evening; but it must be an hour of activity and exertion of mind.

"I read, as part of a course, two pages in Johnson's Pope. He re-

cords fairly, forcibly, and most pleasingly in point of expression, his filial piety; and asserts and accounts for his sorrow for Gay's death. He then treats the subject of the publication of his letters. The first question is, Did Pope contrive a surreptitious publication, in order to be able to publish himself with less exposure to imputation of vanity? Johnson first tells the story exactly as if he believed, and meant to put it forth as the true account of the matter, that Curl acted without Pope's procurement or knowledge; and that he was surprised and angry at Curl's conduct. He then gives Curl's account, which, true or false, does not implicate Pope; and declares his belief of its truth. Somewhat unexpectedly then, he intimates, and at length formally declares his own opinion to be, that Pope incited the surreptitious publication to afford himself a pretext to give the world his genuine correspondence. His proofs and arguments are at least few and briefly set forth. At a moment of less occupation I will examine the question by Roscoe's helps, and express the results.

"Milton's father was the son of a Papist, who disinherited him for becoming a Protestant at Oxford. His first instructor was a private instructor, and was Young, a Puritan, who had been also an exile to Hamburg for his religious opinions. His father, too, was educated at the University, was of a profession which a gentleman might follow, and a lover and writer of music. His mother was of a good family, and greatly esteemed for all the virtues; and preëminently for her charity. The earliest influences, therefore, on the transcendent capacities yet in infancy and childhood, might dispose to seriousness; to thoughtfulness; to the love and appreciation of musical sounds and successions; to sympathy for, and attention to human suffering; to tendencies towards the classes of religious Puritanism; to dignity and to self-respect, as descended, on both sides, of gentle ancestry, and imbibing its first sentiments from refined and respectable minds, tastes, and character. Milton passed through no childhood and youth of annoyances, destitution, illiberal toil, or unrefined association. It was the childhood and youth of a beautiful and vast genius; irresistibly attracted, systematically set to studies of language; the classical and modern tongues and literature; already marking its tendencies by recreating in the harmonious and most copious speech and flow, and in the flushed and warm airs of Spenser; in the old romances; in its own first 'thoughts voluntarily moving harmonious numbers.' Except that his eyes and head ached with late hours of reading, till he went to Cambridge, in his seventeenth year, I suspect he had been as happy as he had been busy and improving.

"*Boston, June* 23, [1844.] — It is necessary to reconstruct a life at home; life professional and yet preparatory; educational, in reference to other than professional life. In this scheme the first resolution must be *to do* whatever business I can find to do — *tot. vir. maximo conatu* — as for my daily bread. To enable me to do this, I must revive and advance the faded memory of the law; and I can devise no better method than that of last summer, — the preparation of a careful brief, on every case in Metcalf's last volume, of an argument in support of the decision.

In preparing this brief, law, logic, eloquence, must be studied and blended together. The airy phrase, the turn of real reply, are to be sought and written out. I may embody in a commonplace the principles acquired; and I shall particularly strive to become as familiar with the *last* cases, of the English, and Federal benches at least, and if possible, of those of New York, Maine, and New Hampshire, as of our own. I have lost the whole course of those adjudications for some years. These studies, — and this practice, — for the law.

"I advance to plans of different studies, and to the training for a different usefulness, and a more conspicuous exertion. To avoid a hurtful diffusion of myself over too wide and various a space — *laboriose nihil agens* — I at once confine my rhetorical exercitations within strict and impassable limits. I propose to translate Cicero's Catiline Orations; or as many as I can, beginning with the first; with notes. The object is, — 1st, The matter and manner of a great master of speech; 2d, English debating style, and words; 3d, The investigation of the truth of a remarkable portion of history. All the helps are near me. I shall turn the Orator, as nearly as I can, into a debater statesman, of this day, in Parliament and in Congress.

"With this, I shall read Burke's American speeches, writing observations on them. The object is, his matter and manner; useful gleanings; rules of speech. But to this is to be added the study of politics. And for this circumstances are propitious. The approaching election requires that the true national policy of the country should be impressed on the minds of the people of America. To elect a Whig administration is to prefer, and to secure the practical realization of that policy. To induce the people to elect such an administration, you must first teach them to prefer, to desire that policy. To do that it must be explained, contrasted, developed, decorated. To do that it is to be deeply studied. I mean, therefore, to compose discourses on the tariff; on Texas; on currency; on the general points of difference, and grounds of choice between the parties, and the like, — embodying what I understand to be the Whig politics, and the sound politics of the hour. In all, through all — an impulsive presentation of truths — such an one as will move to the giving of votes for particular men, representing particular opinions, is the aim. Every one ought to be and to involve, 1st, an honest study of the topic — and so an advance in political knowledge; 2d, a diligent effort to move the public mind *to action* by its treatment; and so an exercise *in speech*. '*Princip. fons sapientiæ.*' Truth for the staple — good taste the form — *persuasion to act* — for the end.

"*July* 16. — The gift of an interleaved Digest of Massachusetts Cases, suggests and renders practicable a plan of reviewing and reviving the law. I shall add the fifth volume of Metcalf to the Digest as it stands, and in so doing advert to the whole series of decisions. This will not interfere with my purpose of making a frequent brief on legal theses. A trial of myself in that way yesterday, encouraged me to suppose I can recall and advance my law. I am sure I have hit on the right mode of study, by digest, and brief; and I feel in the resolution a revival of zeal, fondness, and ability to work.

"17*th July*. — Engaged in translating Cicero against Catiline. I would

study that famous incident in the Roman history. I must assume Cicero's orations to be evidence of the highest authority remaining. He pronounced them — one in the presence of Catiline — all of them before the Senate or people of Rome, during the transactions to which they relate — he, the Consul, stating and defending the most public acts of administration, in a great emergency. I see nothing to detract from their decisive weight as testimony, but the fact that he and Catiline were on opposite sides of the conspiracy. This may constitute a vast diminution of title to credit, and I must allow for and measure it. One word on Sallust. For many reasons his authority is not so high. He was not an actor in the scene. He could not have personal knowledge of details to so minute an extent. But consider that he was about twenty-two years of age at the time when the conspiracy was formed; and that he must have written his history within thirty years after the event itself, since he died at the age of fifty-one, and therefore addressed, to some extent, a contemporary public. If he is not to be relied on it must be for other causes than want of means of knowing main facts. Still the circumstances would not assure us against very considerable resort to imagination, and rhetoric, — still less against partisan feeling and aim. Where are the proofs or grounds of suspicion of his untrustworthiness as a historian? Take his sketch of Catiline's character. Catiline was of noble birth; and possessed extraordinary power of mind and of body; but his moral nature was wholly wicked, and his life habitually vicious.

[Here appears to be a loss of some pages.]

"There is a pleasure beyond expression, in revising, rearranging, and extending my knowledge of the law. The effort to do so is imperatively prescribed by the necessities and proprieties of my circumstances; but it is a delightful effort. I record some of the uses to which I try to make it subservient, and some of the methods on which I conduct it. My first business is obviously to apprehend the exact point of each new case which I study, — to apprehend and to enunciate it precisely, — neither too largely, nor too narrowly, — accurately, justly. This necessarily and perpetually exercises and trains the mind, and prevents inertness, dulness of edge. This done, I arrange the new truth, or old truth, or whatever it be, in a system of legal arrangement, for which purpose I abide by Blackstone, to which I turn daily, and which I seek, more and more indelibly to impress on my memory. Then I advance to the question of the *law* of the new decision, — its conformity with standards of legal truth, — with the statute it interprets; the cases on which it reposes; the principles by which it is defended by the court, — the *law*, — the question of whether the case is law or not. This leads to a history of the point; a review of the adjudications; a comparison of the judgment and argument, with the criteria of legal truth. More *thought*, — producing and improved by more writing, and more attention to last cases of English and our best reports, are wanting still.

"I seem to myself to think, it is within my competence to be master of the law, as an administrative science. But let me always ask at the end of an investigation, can this law be reformed? How? why? why not? *Cui bono* the attempt?

"A charm of the study of law is, the sensation of advance, of certainty, of 'having apprehended,' or being in a progression towards a complete apprehension, of *a distinct department and body of knowledge.* How can this charm be found in other acquisitions? How can I hit on some other field or department of knowledge which I may hope to master; in which I can feel that I am making progress; the collateral and contemporaneous study of which may rest, refresh, and *liberalize* me, — yet not leave mere transient impressions, phrases, tincture; but a body of digested truths and an improved understanding, and a superiority to others in useful attainment, giving snatches of time, minutes and parts of hours, to Cicero, Homer, Burke, and Milton, to language and literature? I think I see in the politics of my own country, in the practical politics of my country, a department of thought and study, and a field of advancement, which may divide my time, and enhance my pleasure and my improvement, with an efficacy of useful results equal to the law.

"My experience in affairs will give interest to the study of the thing. It will assist the study, as well as give it interest. The newspaper of every morning, the conversation of every day, the speech of the caucus, the unavoidable intercourse with men, may help it. One hour of exclusive study a day, with these helps, might carry one very far; so far at least, as to confer some of the sensations, and some of the enjoyments, attending considerable and connected acquisitions. Let me think of methods and aims.

"1. The first great title in this science is the Constitution; its meaning, its objects, the powers it gives, the powers it refuses, and the grand reasons why.

"2. The second is the policy on which that Constitution ought to be administered, the powers it ought to put forth, the interests, domestic and foreign, to which it ought to attend. This is practical statesmanship, the statesmanship of the day. Now, let us see how systematic and scientific acquisitions are to be achieved on these grand subjects.

"1. It is to be done by composing a series of discourses, in the manner of lectures, or speeches, or arguments, or essays, as the mood varied, on the particulars into which these titles expand themselves. Verplanck's letter to Col. D., speeches on the Tariff, might furnish models. I cannot anticipate the several subjects of the discourses composing such a body of study and thought, — but I can anticipate some of them. The history of the making of the Constitution, by which I now mean narrowly, the history of the call, and acts of the convention which made, and those which adopted it. The history of the causes which led to the formation of such a Constitution, — by which I mean, the motives which led the country to desire it, the evils expected to be removed, the good expected to be achieved; as these are recorded in contemporay memorials, in essays, speeches, accounts of meetings, debates, and all the original discussion down to, and through the adoption of the government. This needs a historian. It would reward one. It prepares for — almost it supersedes direct interpretation. It teaches how to administer it in the spirit of its framers and age. It teaches how to value it in the spirit of its framers and its age.

"Thus prepared, you come to the instrument itself; to its meaning, to its

powers and their grounds, to its structure and the philosophy and grounds of that structure. But without pursuing this very general analysis of a plan, which will change and unfold itself at every stage of accomplishment, let me return and be a little more definite and more practical. I am to write then, first, the history of the formation and adoption of the Constitution. For this I have, or can command, the necessary helps. My course will be first to glance at the received general histories, Marshall, Pitkin, and others, and then seek, in original papers and elsewhere, for more minute, more vivid, and less familiar details. *Truth*, truth, is the sole end and aim. I shall read first, with pen in hand, for collecting the matter, and not begin to compose till the general and main facts are entirely familiar. Let me auspicate the enterprise by recalling the immortal speculations of Cicero on his renowned state.

"My helps I have supposed tolerably complete. In my own library are Marshall, Pitkin, Bradford, the Madison Papers, Story, the Debates in Conventions, the Federalist, Sparks's Washington, and some less valuable.

"It will give vigor, point, and interest to what I shall write, to throw it in the form of a contention, an argument, a reply to an unsound, or at least, hostile reasoner, debater, or historian. But everywhere, under whatever form, — style, manner, are to be assiduously cultivated and carefully adapted to the subject. Reflection, therefore, rhetorical decoration, historical allusion, a strong, clear, and adorned expression, a style fit for any intelligent audience, are *in votis*. When shall I prosecute these studies? The hour after dinner seems best, — this leaves the whole morning till two o'clock for the law and for business, from half-past eight, or eight if possible, — and an hour, or half hour before tea.

"*August* 24. Odyssey, Book VIII. 166 to 175. — 'One man has a figure and personal exterior, mean, contemptible; but God crowns and wreathes about his form with eloquence. Men look on him delighted; he speaks unfaltering, but with a honeyed modesty; he is foremost of the assembly; as he walks through the city they look on him as on a god.

"'Another in form is like the immortals, but he is unadorned by the charm of graceful speech.'

"Mark the recognition of the power of eloquence. It is an endowment which decorates, which crowns an unattractive person like a garland. It is unfaltering, self-relying, yet it charms by the sweetest modesty. Its possessor reigns in the assembly. He is gazed at in the streets. Such praise, such appreciation, such experience, so early, predicts and assures us a Demosthenes in the fulness of time.

"I have gone through a week of unusual labor; not wholly unsatisfactorily to myself. I deliberately record my determination to make no more political speeches, and to take no more active part in the election or in practical politics. One exception I leave myself to make. But I do not expect or mean to make it. I have earned the discharge — *honesta missio petitur et concessa erit*. To my profession, *totis viribus*, I am now dedicated. To my profession of the law and of advocacy, with as large and fair an accompaniment of manly and graceful studies as I can command.

"In reference to my studies of eloquence, I would do something to collect and arrange *general observations* — maxims, proverbs — *sententiæ*, γνῶμαι — for use. They fix attention. They are argument, authority, illustration, the signs of full minds. Burke, Johnson, Burton's Anatomy — any great author — any author supplies. The difficulty is of arrangement, so that in the composition of an argument they would be at hand. I see no way but to digest them in my Index Rerum — selecting the letter as best I may — but it must be my business also to connect them in my memory with the truths they belong to, and with the occasions of possible exhibition and use — and to review the collection from time to time, and especially on the preparation of a discourse.

"29*th September.* — A little attention to things, and persons, and reputations about me teaches that uncommon professional exertions are necessary to recover business to live, and a trial or two teaches me that I can very zealously, and very thoroughly, and *con amore*, study and discuss any case. How well I can do so, compared with others, I shall not express an opinion on paper — but if I live, all blockheads which are shaken at certain mental peculiarities, shall know and feel a reasoner, a lawyer, and a man of business. In all this energy and passion I mean to say no more than that the utmost *possible painstaking with every case* is perfectly indispensable, and fortunately not at all *irksome*. The case in hand demands, invites to a most exact, prepared, and deep legal and rhetorical discourse.

"For the rest I grow into knowledge of Homer, and Tacitus and Juvenal — and of the Rome of the age from Augustus to Trajan. A busy professional week has suspended Cicero somewhat, and has as usual made the snatches of my unprofessional readings a little desultory, — which is more and more besetting; more and more deleterious.

"I wish, as I have long wished, that I could acquire a genuine and fervent love of historical reading, — I mean the reading of what I may call authentic and useful history; and by that I mean the series of facts of which the present is the traceable result. The classical historians I do love. I read Tacitus daily. But this is for their language; for their pictures; for the poetical incident; the rhetorical expression; the artistical perfectness; and beauty. We cannot know that anything more is true than the most general course of larger events. The moment you go beyond that, you are among the imaginative writers. You are dealing with truths; moralities; instructions; but you do not know that you are or are not dealing with actual occurrences.

"The history I would read is modern. I should go no farther back than Gibbon; should recall the general life, thoughts, action, of the Middle Age in him, and Hallam's two great works; and begin to study, to write, to deduce, to lay up, in the standard, particular histories of the great countries.

"Under this impulse I have decided to start from the revolution of 1688; first with the English writers; and then with Voltaire. The revolution; and the reign of William and Mary, and William the Third are my first study. For this the means are perhaps sufficiently ample. My plan is simple. I examine first the foreign politics of England — her relations to Europe; the objects of her wars; the objects of her treaties;

and the results. I have thus surveyed the general course of what we loosely call the history of the time. Then I turn to the Constitutional history. By this I mean the history of the changes of the Constitution; the politics of the Crown; the politics of parties; the politics of prominent men; the politics of Parliament; the laws made; the progress and expression of public opinion as that opinion relates to Government, and to civil and political right and duty. I mean by it the history of so many years of English liberty. The industrial history; the popular history; the history of the condition of the people, their occupations; their enjoyments; their nature; the history of literature, art, and science; and the study of the master-pieces of liberal culture and high art follow.

"I wish then to compress into a few condensed and comprehensive paragraphs the result of hours and of days' study, under each of these heads. Notes on these summaries may indicate and discuss the materials out of which this is all elaborated.

"Let me begin, then, with such a succinct display of the foreign politics of England in the reign of William.

"The one grand feature of English foreign policy during this reign, was antagonism to France — to the France of Louis the Fourteenth. Its one grand and constant solicitude and effort was to repel, or to attack, France; — its alliances, its battles, its whole series of operations from 1688, till the King sunk into the tomb, pursued this single object.

"There is a simplicity in the foreign politics of this reign in this respect. And when you ascend, or penetrate to the origin and explanation of this policy; when you inquire how and why this antagonism to France became its law; on what principles and with what views so wide a confederacy became associated with England in its prosecution; when, in other words, you look more closely into the entire international politics of the Europe of that day, you find all as simple, and all as intelligible. In the first place, the foreign policy of England became identified with that of the United Provinces; and Holland was under an unintermitted necessity to fight, or to observe France. Turn first to Holland" ———

CHAPTER V.

1844–1845.

Political Excitement — Speaks for Mr. Clay — Meeting of Congress — Diary — Annexation of Texas — Admission of Iowa and Florida — Establishment of the Smithsonian Institution — Library Plan — Letters to Hon. C. W. Upham — Illness of Dr. Sewall — Letter to Mrs. Brinley.

IN the political contest of 1844, the annexation of Texas was the leading issue. Mr. Van Buren failed of a nomination in the Democratic Convention, mainly because he was unfavorable to that measure, and Mr. Polk was substituted in his place. Mr. Clay was the candidate of the Whigs. Mr. Choate entered ardently into the campaign, supporting Mr. Clay with all his ability. He spoke on the 4th of July, at Concord, where speeches were also made by Mr. Berrien, of Georgia, Mr. Webster, Mr. Winthrop, Mr. Lawrence, and others. He addressed a Whig Convention of Western Massachusetts at Springfield, on the 9th of August. He spoke before the Young Men of Boston on the 19th of the same month, and again before a Mass Meeting at Lynn, early in September. He was opposed to the admission of Texas, not on narrow or sectional grounds, but from fear of the final result to the Union itself. In the speech at Lynn, prescient of coming danger, he said, "If Texas is annexed to the United States, these revolutionary soldiers who rocked the cradle of the infancy of the Union, will live to follow its hearse to the grave." We are better able now to judge of the effect of that sudden and immense increase of territory, and of the purposes for which it was urged.

A continuation of the fragmentary "Journal" will best show the intellectual plans of the year, and may indicate what he accomplished in the midst of, and in spite of the incessant demands of politics, and of his profession.

"*Boston, December* 9, 1844. — About to set off to Washington, there to close in two months, forever, my political life, and to begin my return to my profession, I am moved with a passion of planning a little — what, in all probability, will not be performed — or not performed without pretty essential variations and interruptions.

"1. Some professional work must be done every day. Probably the preparation of Rhode Island *v.* Massachusetts, and of Thurlow in Error, may furnish quite enough for these. But recent experiences suggest that I ought to be more familiar with evidence and Cowen's Phillipps; therefore, daily, for half an hour, I will thumb conscientiously. When I come home again, in the intervals of actual employment, my recent methods of reading, accompanying the reports with the composition of arguments upon the points adjudged, may be properly resumed.

"2. In my Greek, Latin, and French readings — Odyssey, Thucydides, Tacitus, Juvenal, and some French orator or critic — I need make no change. So, too, Milton, Johnson, Burke — *semper in manû — ut mos est.* To my Greek I ought to add a page a day of Crosby's Grammar, and the practice of parsing every word in my few lines of Homer. On Sunday, the Greek Testament, and Septuagint, and French. This and the oration for the Crown, which I will completely master, translate, annotate, and commit, will be enough in this kind. If not, I will add a translation of a sentence or two from Tacitus.

"3. The business of the session ought to engross, and shall, my chief attention. The Smithsonian Fund ought to be applied to a great library; and a report and a speech in favor of such an appropriation are the least I owe so grand and judicious a destination of a noble gift. An edition of the laws, on the plan of the last winter, is only next in dignity and importance. For the rest — the reduction of postage, the matter of Texas, the tariff — will be quite likely, with the Supreme Court, to prevent time from hanging vacantly on my hands. *Sit mihi diligentia, sint vires — sit denique et præcipue gratia!*

And now for details of execution.

I. Walk an hour before breakfast; morning paper; Johnson and Milton before breakfast. Add, if possible, with notes, an Essay of Bacon also, or a paper of the Spectator, or a page of some other paper of Addison.

II. After — 1. The regular preparation for the Senate, be it more or less. Let this displace, indeed, all else, before or after. 2. If that allows — (*a.*) Preparation of cases for courts. (*b.*) If that allows — 1. Page in Cowen's Phillipps. 2. Then preparation for courts. 3. Then Senate, &c.

III. Letters and session.

IV. Then — subject to claims of debate and of Court — Greek, Latin, French, *ut supra*, Burke, Taylor.

V. The cases to be prepared by — say 20th January; debate oftener than formerly; less preparation is really needful, yet seek one great occasion.

"THE LAST SESSION.

"*15th December*, 1844. — Under this title I mean to set down anything which I may collect from reading and intercourse with men in Congress and the Government, that strikes me as having value or interest enough to deserve the trouble. I don't design it for a diary; or mere record, or in any degree a record, of daily occurrences, for that I keep elsewhere, but rather as a record of daily thoughts and acquisitions and impressions, during what I foresee must be a most instructive session, and what I know is to be my last session.

"I begin a great work. Thucydides, in Bloomfield's new edition, with the intention of understanding a difficult, and learning something from an instructive writer — something for the more and more complicated, interior, *inter state*, American politics.

"With Thucydides I shall read Wachsmuth, with historical references and verifications. Schömann on the Assemblies of the Athenians. W. especially, I am to meditate and master. Dacier's Horace, Ode 1, 11th to 14th line, translation and notes, — a pocket edition to be always in pocket.

"*Washington, Tuesday eve.*, *17th Dec.* — I was able to-day almost to resume my courses, such as they are, of classical and elegant reading — Johnson's Life of Addison; the Odyssey, Thucydides, Tacitus, Juvenal, Horace's Art of Poetry in Dacier and Hurd. It was quite mechanical however, from ill health and fatigue. I begin to-morrow *melioribus ut spero, auspiciis*. I read Phillipps's Evidence, beginning at title 'Incompetency,' and commonplaced a reference or two.

"*Thursday eve.* — Mark how Homer makes the wise and great Ulysses applaud the blind harper and poet and singer Demodocus, Od. 8, 470 to 480, and again, 487, &c. *Seq.*

"'Demodocus, above all mortals, I laud you. Either the Muse, the daughter of God, or Apollo, has been your teacher. So clearly and so truly do you sing the dark and sad fortunes of the Greeks; what they achieved; what they suffered; with what manifold trials and labors they contended, as if you had been with them, an eye-witness, a sharer, or had heard from one who had been.'

"Thucydides is explaining why the primitive ages of Greece afford the historian nothing great, neither in war, nor in anything else. In my reading of to-day, close of 2d and 3d of c. 2, he is saying: 'And for this reason, they did not strengthen themselves, either by the greatness of cities or by military preparation of any kind. It was ever the most fertile regions which oftenest underwent changes of occupants; such as what is now called Thessaly and Boeotia, and the greater part of Peloponnesus, (excepting Arcadia,) and the better portions of other countries of Greece. For by means of the richness of their soils certain individuals would attain to a superiority of wealth; and this at once gave birth to factions within, by which they were subverted, and exposed them to enemies from without.'

"Tacitus, Lib. II., sec. 30, relates the accusation and trial of Libo: 'This compelled the accused to ask a postponement of the trial until the

next day; and returning to his house, he committed to P. Quirinus, his kinsman, the last entreaties, to be borne to the Emperor.' 'Let him ask mercy of the Senate.' Such was the reply of Tiberius.

"*Saturday night, 28th Dec.*, 1844. — My readings have been pretty regular and almost systematic. Phillipps's Evidence, with notes, Johnson, The Tatler, The Whig Examiner, and Milton, in the morning — some thoughts on the Smithsonian Fund, and one or two other Senatorial matters in the forenoon, and the Odyssey, Thucydides in Bloomfield, Hobbes, and Arnold, Demosthenes for the Crown, Tacitus, Juvenal, and Horace de Arte Poet. with Dacier and Hurd. For the rest I have read Jeffrey's contributions to the Review, and have plunged into a pretty wide and most unsatisfactory course of inquiry concerning the Pelasgi, and the origin of Greek culture, and the Greek mind. Upon this subject let me set down a few thoughts.

"*28th December*, 1844. — The nation which attracts the highest interest to its history is undoubtedly Ancient Greece. Perfectly to know that history, to discern and arrange its authentic incidents, to extract and exclude fable, to abate exaggeration, to select sagaciously and probably between alternatives of conjecture; to solve the great problem of the origin, successive growth and complete formation of that mind and character, the causes which produced it and set it apart from all other character and mind; to deduce and apply the lessons of that history to America — would be a vast achievement of scholarship and philosophy and statesmanship. To me, *cogitante sæpenumero* on what one such labor I may concentrate moments and efforts else sure to be dissipated and unproductive, this seems to be obviously my reserved task. It is large enough, and various enough to employ all my leisure, stimulate all my faculties, cultivate all my powers and tastes, and it is seasonable and applicable in the actual condition of these States. He who should perform it adequately would be not merely the best Greek scholar of this country; the best read in one brilliant chapter of the history of man; the most accomplished in one vast department of literature, art, philosophy, fact; but he would have added to his means of counselling the people on the things of their peace. He would have learned more of the uses and dangers of liberty, and the uses and dangers of union. Let me slowly, quietly begin. I seek political lessons for my country. But I am to traverse centuries before I find these lessons in the pages of Thucydides. To approach to the accomplishment of this design, it must be my only literary labor — my only labor not professional. It may well, and it positively must supersede all others. The investigations it will exact; the collections of authorities; the constant use of the pen; the translations, the speculations, ought to constitute an admirable exercise in reasoning; in taste; in rhetoric as well as history. They may be embodied in a series of careful essays.

"I dismiss therefore, and replace in the library, all my books, except the two or three which I read for English and Latin — and bestow myself on this.

"The Homeric poems present to us a Greece already formed; a race speaking one tongue, distinct from the tongues of Egypt or Phœnicia, distributed into many distinct sovereignties; some of which, or all of

which are allied for the prosecution of a great foreign war, under a single command. They disclose this race already in the occupation of ———

[Here a blank occurs in the MS.]

and they paint vividly, comprehensively, its whole public and private life; its religion; its industry; its art; its language; its mind; its manners. That Greece I shall, long hereafter, carefully study and exhibit. But not yet. There is a stupendous preliminary problem. What had preceded and produced that Greece? What causes had acted on what races so as to evolve the Greece of the heroic age? who had been the actors; what had been the acts, — what had been the influences; what the succession of changes, and of advancement?

"The Greek character and mind in its perfection, was so extraordinary, so unlike all that had preceded or have followed it, that it is not very strange perhaps that speculatists should look with favor on the theory of a descent from a primitive race or races, of extraordinary qualities. They have scarcely been able to comprehend how any mere national education, however varied, however plastic, of which we can learn anything, could have formed such a character and such a mind out of common savage nature; and they have been half inclined to find in the Pelasgi of the Old World, or in the Hellenes, or in a race from the North — or in all together, the germs of the transcendent genius, and the brilliant traits which illustrate the age of Grecian glory.

"Let me begin then with the *Ante Hellenic* races and ages of Greece. Who — whence — what — and of what names, fortunes, diffusion, its first inhabitants?

"THE LAST SESSION, — A DAY.

"*January*, 1845. — Finished Johnson's Life of Sheffield. J. carelessly assigns as evidence that S. refused conversion to papacy, an anecdote which he immediately disproves. If the sentence had been finished with 'others;' and he had then said, B. *even* records, &c., &c., and then disproved B.'s specific statement, better.

"The progress of Milton's fame, illustrated by the changes of the later editions of one of his [Sheffield's] pieces from the earlier, is curious.

'A faultless monster, which the world ne'er saw,'

is good and quotable. *Sine labe monstrum* [of Scaliger] is the germ certainly.

"I remark 'illegality,' and 'conjunctive sovereignty.' How does Hallam express it? Is it associated sovereignty?

"Milton's 'Paradise Lost,' 1st book, 344–375. Mark the matchless grandeur and elevation of expression. '*Cope* of Hell,' 'Great *Sultan*,' not sovereign; how much more harmonious, aiming at variety, uncommon, with a charm of orientalism. 'Rhene,' 'Danaw,' '*Beneath* Gibraltar,' an epithet which makes you look down south.

'Gay religions, — full of pomp and gold,'

classical and gorgeous.

"Paper in Ret. Rev.[1] vol. i. p. 83, on Sir Thomas Browne's 'Urn Burial,' — great beauty and an exquisite appreciation of the peculiarities of B. The first page, devoted to show what use other, most writers, have made of death and mortality, has delightful expression and fine thoughts, not enough separated and arranged and made progressive. 'Fragility' of delight is *not* a bewitching attribute of delight. It is an influence, however, a fact, or that which leads to a more intense estimate and greedier and fonder enjoying of, and a making most of it.

"What follows is truer, or more truly sets forth what philosophy and poetry may and do effectively derive from mortality to their representations of affection; sympathy, the human nature.

"In addition to my course, and a rule of Greek grammar, I read a part of 1st Psalm in Buchanan's Latin and Dupont's Greek; the latter verbose and tautologous, the former, I should think, rigorously classical and energetic. Finished with some pages of Jeremy Taylor, on life and death. Intense, exaggerated, mournful, too true. I will daily read in the English version at least six verses of the New Testament with an earnest effort to understand, imbibe, and live them. Satis, plusquam satis, sic vixisse, — sic non vixisse, — nec pulchre, — nec recte, — sine dignitate, — sine me ipsum salvum faciend.! sine reg. — sine observ. — Dei præcept. — sine intellig. — et app. — ad me instit. — et ritus rel. Christ — vit. ist. tuæ felic. non debetur, nec promissa, nec poss.! Ideo ut supra in vers. ang. unâ cum fin. diei stud. Sex vers. leg. et med. et orare!

"The session ended. Boston, March 10, 1845.

"To resume my ante-Homeric Greece, I have but to procure a Niebuhr and Müller in addition to books already at hand, to review the collections accumulated at Washington, and begin. But all this is to be held in strictest subordination to law and to business. It is to be relaxation and recreation strictly, yet is it to improve style, reason, taste, and habits of research.

"*30th M.* '45. A succession of trials in different courts has thrown me out of many merely literary and *exercitational* purposes and duties. These I resume, and every day — not a day of trial in court — I shall investigate some subject of law, three hours at least, digesting the results.

"Translation daily is manifestly my only means of keeping up my English. This I practise in my post-prandial readings, but I fear it is not quite exacting, laborious, and stimulant enough. I have a pretty strong impression that the only sufficient task would be Demosthenes severely, exactly rendered, yet with utmost striving of words, style, melody, volume of sound, and impression. I should begin with the oration for the Crown. When? By putting my post-prandial classical readings before breakfast, following my English, I could gain an hour, or half of one, after dinner, and half an hour after breakfast at home. This will do, leaving my forenoons, afternoons, and one evening hour, for business and law. *Try.*

"*12th April.* — I have tried, and with tolerable success. I have translated the Decree of Ctesiphon; the impeachment of Æschines; and am now about to digest so much of the History of Greece as will enable me

[1] "Retrospective Review."

to understand the two great speeches. This really will require a pretty careful study of the age and life of Demosthenes in Plutarch, Mitford, Thirlwall, and such other helps as I can command. Contemporary authors there are none since Theopompus is perished; and I appreciate the difficulty of the search for truth. Happy if I find enough for my mere critical and rhetorical purposes."

The purpose suggested above of devoting himself to a work on the history and culture of Greece, was one which he doubtless pretty seriously entertained. He used, sometimes, to speak to his family, half jocosely and half in earnest, of his "immortal work," and I think he did not quite abandon the plan until after Mr. Grote's history was published.

The subjects which presented themselves for the consideration of Congress during the session of 1844–45 were of considerable consequence. Foremost among them was the annexation of Texas. During the previous session, in accordance with the wishes of the President, an attempt had been made to accomplish this object by treaty. A treaty was therefore negotiated by Mr. Calhoun, Secretary of State, and Mr. Van Zandt, representative of Texas. When presented to the Senate, however, it was rejected by a very decisive vote. An attempt was now made to reach the same end by resolutions, which were introduced in the Senate, by Mr. M'Duffie, and in the House, by Mr. Ingersoll. The subject was not fairly reached in the Senate until the 13th of February, 1845, and after the resolutions had passed the House. The debate was conducted with great ability, and by the leading men on both sides of the chamber, by Mr. Buchanan, Mr. Walker, Mr. Woodbury, and others, on the one side, and by Mr. Choate, Mr. Dayton, Mr. Crittenden, and Mr. Berrien, to name no more, on the other. The interest in the discussion was heightened by the fact that the Senate was nearly equally divided on the subject. Mr. Choate spoke on the 18th of February for nearly three hours. — There is no full report of this speech, which is said to have been of very great power.

The grounds on which he opposed the measure were mainly these two: 1st. That it was beyond the constitutional power of Congress; 2d. That even if constitutional, it was inexpedient. These points he argued at considerable length, enforcing his argument, as the report says, with "innumerable illustrations." Looking at the period before the Constitution was formed, he contended that "in framing the Constitution, when

the sovereign power of the people was to be delegated, the grant was intended to be in express terms, such as the power to declare war, make peace, regulate commerce with foreign nations, levy taxes, &c. But no such power as that of admitting foreign nations into the Union was delegated, or it would have been also explicitly granted." Looking at the Constitution itself, he endeavored to show that the power to admit new States was not intended to imply the vast power of admitting foreign governments. This he denied could be done by any power but the primary, sovereign power of the people themselves, either by agreement to amend the Constitution so as to grant the express authority, or otherwise. "Until it was found," he said, "that the treaty of the last session had no chance of passing the Senate, no human being save one, no man, woman, or child, in this Union or out of this Union, was ever heard to breathe one syllable about this power in the Constitution of admitting new States being applicable to the admission of foreign nations, governments, or States. With one exception, till ten months ago, no such doctrine was ever heard, or even entertained." The exception to which he alluded was the letter of Mr. Macon to Mr. Jefferson, which Mr. Jefferson so promptly rebuked, that the insinuation was never again repeated, "till it was found necessary ten months ago by some one, — he would not say with Texas scrip in his pocket, — but certainly with Texas annexation very much at heart, who brought it forward into new life, and urged it as the only proper mode of exercising an express grant of the Constitution." This he regarded as a new and monstrous heresy on the Constitution, got up not from any well-founded faith in its orthodoxy, but for the mere purpose of carrying a measure by a bare majority of Congress, that could not be carried by a two thirds majority of the Senate in accordance with the treaty-making power.

In conclusion, alluding to some criticism upon his own State, he said "Massachusetts asks nothing but what the Constitution has given to her, and there is nothing in the Constitution, however peculiar, however different from her views of policy, that she will seek to stir, or ask to be invaded. Keep the Constitution and the Constitution will keep you. Break into it in search of secret curiosities which you cannot

find there, and there is no longer security, — no longer anything between you and us and the unappeasable, unchained spirit of the age."

The resolution, or rather an amendment "leaving it at the discretion of the President, whether resort should be had to negotiation, or Texas 'be admitted by virtue of this act,' and become an independent State," was finally passed by a majority of two, and having again gone through the House, President Tyler signed the bill, among the last of his official acts.

A bill was also introduced at this session to admit Iowa and Florida into the Union. Though not opposed to the admission of new States, Mr. Choate strongly objected to the extraordinary method of a joint bill, making the admission of the one dependent upon that of the other. Some things in the constitution of Florida he considered to be ill-advised if not unconstitutional. When, therefore, Mr. Evans proposed as an amendment that Florida should not be admitted until those articles should be struck from her constitution which took from her General Assembly the power to pass laws for the emancipation of slaves, and to pass laws preventing free negroes or other persons of color from immigrating to the State, or from being discharged from any vessel in any of the ports of the State, Mr. Choate supported it. He did it, though reluctantly, because the articles seemed to be contrary to the Federal Constitution. Admitting that Florida had the right to pass such municipal laws as her circumstances required, he wished that those who denied their constitutionality might go to the Supreme Court without being met by the adverse action of Congress. Massachusetts was even then engaged in a controversy with two other States involving the questions here brought to notice, and all that he solicited was an opportunity to have the right of the Southern States to arrest the colored citizens of the North, brought directly before the Supreme Court of the United States for its decision; a decision, whatever it were, that Massachusetts would be sure to respect.

Of all the objects, however, which came before the Senate during the session, none interested Mr. Choate more deeply than the organization of the Smithsonian Institution. The will of James Smithson, containing his munificent bequest, was dated October 23, 1826, nearly three years before his death.[1]

[1] Smithson died June 27, 1829.

The bequest was accepted by Congress in 1836, and the money was received by the Government of the United States on the 1st of September, 1838. The disposition of so large a fund, amounting to more than half a million of dollars, became a matter of much solicitude to all who regarded the interests of knowledge, or the honor of the country. Many were afraid, that through the recklessness of parties, it would in some way be lost. If preserved, intelligent men differed as to the use to be made of it. In the summer of 1838, by order of the President of the United States, letters were addressed to eminent persons in various parts of the country, soliciting advice. As might have been anticipated, the opinions were as diverse as the men. John Quincy Adams, who had devoted much thought to the subject, recommended that the income of the fund, for a series of years, should be devoted to establishing a National Observatory. President Wayland sketched the plan of a University. Mr. Rush proposed the collection of seeds, plants, objects of natural history, and antiquities, and, in addition, courses of lectures, which should be free to a certain number of young men from each State. Other plans were also suggested, and the subject was discussed from time to time in both branches of Congress, without, however, leading to any definite result. In December, 1844, Mr. Tappan, a Senator from Ohio, brought in a bill similar to one which he had advocated during a former session, providing for the selection of grounds for purposes of agriculture and horticulture, the erection of buildings, and the appointment of Professors and Lecturers. An Institution, he thought, would thus be established similar in plan and results to the Garden of Plants in Paris.

Mr. Choate was so anxious for some organization that he stood ready to vote for any reasonable proposition which would command a majority, but another scheme, radically different from that proposed by the bill, seemed to him so much to be preferred, that on the 8th of January, 1845, he offered, as an amendment, what was called the *Library Plan*. The characteristic feature of this was a provision that a sum not less than $20,000 should be annually expended for the purchase of books and manuscripts for the formation of a Library, which for extent, completeness, and value, "should be worthy of the

donor of the fund, and of this nation, and of this age." There were reasons at that time for such a disposition of the legacy, which do not to the same extent exist now. Not a library in the country then numbered more than 50,000 volumes, and the one or two which contained so many, had no funds for their large increase, or even adequate to their preservation. The bill thus amended, was amply discussed, and finally passed the Senate January 23, 1845. It being the short session of Congress, the subject was not reached in the House in season for a vote. Mr. Choate left the Senate in March, and of course had no further public agency in the organization. During the next session, however, a new bill, substantially the same as that proposed by Mr. Choate, was carried through the House, mainly by the exertions of Hon. George P. Marsh, then a member from Vermont. It authorized the Regents to make an appropriation not exceeding an average of $25,000 annually, for the formation of a library, composed of valuable works pertaining to all departments of human knowledge. Several other plans were urged, but all were rejected, and the bill which passed, took its final shape from a series of amendments proposed by Mr. Marsh, "all with a view," as he said, "to direct the appropriation entirely to the purposes of a library." In the Senate, the bill was referred to a Select Committee, and after free discussion and the rejection of several amendments, finally passed that body precisely as it came from the House. It was approved by the President, and became a law August 10, 1846.

It may be proper to state here briefly and with reference only to results, Mr. Choate's subsequent connection with an Institution in the establishment and welfare of which he had taken so deep an interest. He was elected a member of its first Board of Regents; an honor eminently due to his efforts in its behalf, and to the fact that the plan of a library, which he had initiated, had been adopted by Congress. At the first meeting of the Board, a committee was appointed, of which Mr. Choate was the chairman, to prepare a report upon the formation of a library, and in accordance with their recommendation, the Board appropriated $20,000 out of the interest of the fund, for the purchase of books, and the gradual fitting up of a library. A committee was also raised to prepare ex-

tended lists of books in different departments of learning, proper to be first purchased. Notwithstanding this beginning, however, a strong opposition to the library existed among the Regents, some of whom had, from the first, favored a plan subsequently known as the " system of active operations." As a means of conciliation, it was voted, early in the next year, to divide the income equally between the two classes of objects, the Library, Museum, and Gallery of Art on the one side, and the Publication of Transactions, Original Researches, and Lectures, on the other. This was proposed and accepted as a compromise, although by some acquiesced in with reluctance. Mr. Marsh especially, was so convinced of its failure to meet the intent of the law, that he proposed to invoke again the action of Congress, and yielded only to repeated solicitations, and to a reluctance to disturb an arrangement, in which the public generally had no great interest, and which, it was hoped, would conciliate all parties. The friends of the original plan of Congress were, however, doomed to greater disappointment. The genius of the Institution bent to science, not to letters. Years rolled on, and the library was suffered to languish in the shade. Instead of a vigorous effort to increase it by a systematic application of appropriated funds, a proposition was made to annul the compromise itself, and leave the apportionment of the expenditures to the annual determination of the Board of Regents. A section of the law providing that " of any other moneys accruing as interest upon the fund, not appropriated, the managers may make such disposal as they shall deem best suited for promoting the purpose of the testator," was relied on as conferring the requisite authority for this change of plan.

Of this proposition Mr. Choate wrote from Boston, February 4, 1854: —

" Situated so far off, I cannot comprehend the reasons on which the compromise is sought to be disturbed. It was the result of years of disagreeing opinions, and of reflections on all modes of administering the fund. The claims of the methods of publication of papers and of the collection of books and specimens of art, were thoroughly canvassed, and respectively well understood. The necessity of reconciling opinions by concession was seen to be coercive. It was yielded to and the matter was put, as it was thought, at rest. It has

been acted on long enough to demonstrate, that if adhered to honorably and calmly and permanently, without restlessness and without ambition, except to do good and to pursue truth under and according to it, it will assuredly work out great, visible, and enduring results, in as much variety of form, satisfactory to as large a variety of opinions, as can be expected of anything.

"For myself I should deplore any change in the distribution of the fund. I appreciate the claims of science on the Institution; and the contributions which, in the form of discovery and investigation, under its able Secretary, it is making to good knowledge. But I insist that it owes a great library to the Capital of the New World; something to be seen, — preserved, — and to grow; — into which shall be slowly, but surely and judiciously, gathered the best thoughts of all the civilizations. God forbid that we should not have reach, steadiness, and honor enough to adhere to this as one great object of the fund, solemnly proposed, and never to be lost sight of."

He subsequently opposed this new plan before the Board, in a speech, of which there is no record, but which one of the Regents said, was "the most beautiful that ever fell from human lips;" and another, Mr. Douglas, added, "that it seemed impertinence for anybody else after it to say a word." It did not avail. The Board was predetermined, and Mr. Choate, who had been reëlected as Regent but a short time before, at once concluded to resign his position. It was inconvenient for him to attend the meetings, and having no longer the interest of the library to lead him there, he chose not to be even indirectly responsible for the proceedings. There were other circumstances which urged him also to the same conclusion, among which, doubtless, was his sympathy with Professor Jewett, who had been summarily deprived of his position as Librarian. He accordingly sent his resignation in the following letter: —

"To HON. JESSE D. BRIGHT, *President pro tempore of the Senate, and*

"HON. LINN BOYD, *Speaker of the House of Representatives*: —

"I take leave to communicate to the two Houses of Congress my resignation of the office of Regent of the Smithsonian Institution.

"It is due to the body which has been pleased to honor me with this

trust for some years, and has recently conferred it for a new term, to say that this step is taken not from any loss of interest in the welfare of that important establishment, but in part from the inconvenience experienced in attending the meetings, and in part, also, and more immediately, from my inability to concur or acquiesce in an interpretation of the Act of Congress constituting the actual Institution and the Board of Regents, which has been adopted, and is now about to be practically carried into administration by a majority of the Board. That act, it has seemed to me, peremptorily 'directs a manner,' and devises and prescribes a plan, according to which it intends that the Institution shall accomplish the will of the donor. By the earlier law accepting the gift, Congress engaged to direct such a manner and to devise such a plan, and pledged the faith of the United States that the funds should be applied according to such plan and such manner. In fulfilment of that pledge, and in the performance of its inalienable and incommunicable duty as trustee of the charity, that body, after many years of deliberation — from which it never sought to relieve itself by devolving the work upon the discretion of others — matured its plan, and established the actual Institution to carry it out. Of this plan, the general features are sketched with great clearness and great completeness in the law. Without resorting for aid, in its interpretation, to its parliamentary history, the journals and debates, the substantial meaning seems to be palpable and unequivocal in its terms. By such aid it is rendered quite certain. A Board of Regents is created to administer it. Some discretionary powers, of course, are given to the Board in regard of details, and in regard of possible surpluses of income which may remain at any given time, while the plan of Congress is being zealously and judiciously carried into effect; but these discretionary powers are given, I think, *in trust for the plan of Congress, and as auxiliary to, coöperative with, and executory of it.* They were given for the sake of the plan, simply to enable the Regents the more effectually and truly to administer that very one — not to enable them to devise and administer another of their own, unauthorized in the terms of the law, incompatible with its announced objects and its full development — not alluded to in it anywhere, and which, as the journals and the debates inform us, when presented to the House under specific propositions, was rejected.

"Of this act an interpretation has now been adopted by which, it has seemed to me, these discretionary means of carrying the will of Congress into effect are transformed into means of practically disappointing that will, and of building up an institution substantially unlike that which it intended; which supersedes and displaces it, and in effect repeals the law. Differences of opinion had existed in the Board from its first meeting, in regard of the administration of the act; but they were composed by a resolution of compromise, according to which a full half of the annual income was to be eventually applied in permanence to what I deem the essential parts of the plan of Congress. That resolution of compromise is now formally rescinded, and henceforward the discretion of the Regents, and not the act of Congress, is to be the rule of appropriation; and that discretion has already declared itself for another plan than what I deem the plan of Congress. It may be added that under the same interpretation, the office and powers of secretary are fundamentally

changed from those of the secretary of the law, as I read it, and are greatly enlarged.

"In this interpretation I cannot acquiesce; and with entire respect for the majority of the Board, and with much kindness and regard to all its members, I am sure that my duty requires a respectful tender of resignation. I make it accordingly, and am

"Your obedient servant,

"RUFUS CHOATE."

"*Washington, D. C., January* 13, 1855."

The reception of this letter excited some commotion in Congress, and gave rise to sharp debates. The House of Representatives appointed a select committee, to whom it was referred, with direction to inquire into the management and expenditure of the funds of the Institution. The two letters which follow, to the chairman of the committee, will show more completely Mr. Choate's views and feelings: —

TO HON. CHARLES W. UPHAM.

"Boston, February 2, 1855.

"HON. C. W. UPHAM, — My dear Sir: I happened to be quite sick when your letters reached me, and am only now able to go out, without being equal to anything. It would afford me the truest pleasure to be able to transmit to the committee a few thoughts on the sense of the act of Congress. That, if read carefully, by the lights of its history, and with a mind not preoccupied, it makes a plan which, until a new law is passed, the Regents were bound to execute heartily, — is, however, so clear, that I do not see what can be added to the bare enunciation. It happened to it just what happened to the Constitution. It was opposed because it was a Library measure, until it became a law, and then a metaphysics was applied to it to show that it was no Library measure after all. I await with great interest the proceedings of your committee; and, if my health will permit, I mean to address something, less or more, to the Hon. Chairman as such.

"I am, most truly,

"Your ob't servant and friend,

"RUFUS CHOATE."

TO HON. CHARLES W. UPHAM.

"Boston, February 19, 1855.

"DEAR MR. UPHAM, — I am distressed to find that it will not be possible for me to prepare anything for the eye of the Committee. My engagements are so utterly out of proportion to my health, that I am prostrated and imbecile for all effort but the mill-horse walk of my daily tasks. It was never my purpose to do more than discuss the question of the intent of Congress. The intent of Smithson is not the problem now. It is the intent of Congress; and that is so transparent, and is so evidenced by so many distinct species of proof, that I really feel that I

should insult the Committee by arguing it. That Congress meant to devise a plan of its own is certain. The uniform opinion of men in Congress from the start had been that it must do so. Hence, *solely*, the years of delay, caused by the difficulties of devising a plan. Why not have at once made a Board, and devolved all on them? But who ever thought of such a thing? If, then, Congress would mean, and had meant, to frame a plan, what is it? Nothing, unless it is that of collections of books, specimens of art and nature, and possibly lectures. It is either these exactly, or it is just what the Regents please. But it cannot be the latter, and then it is these.

"1. These are provided for in terms; nothing else is. 2. The debates show that all things else were rejected. 3. The only difficulties are these two: 1st. It is said discretionary powers are given to the Regents. Yes; but how does good faith require these to be interpreted? Are they *limited* or unlimited? If the latter, then Congress has framed and preferred *no* plan of its own, but has committed everything to the uncontrolled fancies of the Regents. This, if their discretionary powers are unlimited. But how absurd to say this, against an act so *loaded* with details, and whose history shows it carefully constructed to embody a plan of Congress! If, then, the discretionary powers are limited, how are they limited? *So as to subserve and help out* the plan of Congress, primarily and chiefly; and when the good of that plan may be best advanced by a little surplus here or there, they may do with that rare and exceptional case what they will. 2d. The second difficulty is, that the Regents are not directed to expend *at least* so much, but *not above*. The difficulty, as they put it, assumes that there *can be no satisfactory evidence of a plan* of Congress, unless by express language enacting, 'this is the plan of Congress,' or 'it is the intention of Congress, hereby, that the income shall be applied exclusively, so and so,' or, that 'whether books are cheap or dear, a certain *minimum* shall in every year be laid out thereon,' or some other express equivalent of language. But this is foolish. If the whole antecedent action in Congress from the first shows that Congress understands that it is to frame a plan; if the history of this act shows that everybody thought they were framing a plan; if then you find one in all its great outlines actually sketched, building, spacious rooms, provision for books and specimens, &c., &c., — constituting *de facto* a plan, sufficient to exhaust the income; and if you find not a trace of any other mode or scheme, how absurd to demand, in addition to all this, a section to say, 'By the way, Congress *means* something by all this pother; and it means that the plan it has thus portrayed is the plan it chooses to have executed.' Suppose a law, in the first section authorizing a ship to be built of a size and construction specifically adapted to the *Arctic navigation*, as our building is to be for books; and in a second section, an enactment that the captain should cruise not exceeding ten months in the Arctic Ocean; and in a third, that if he have any spare time to cruise, he might explore any other sea; could he go *one* month to the Arctic, and then say he preferred the *Mediterranean*, and cruise there eleven? But why not? There are no express words. But there is other evidence of legislative intent, — the *build* of the ship, and the solicitous provision for a particular sea, and the silence about all

others, and the stupendous *dissimilarity* in the two adventures. If, besides, you found a Congressional history, showing that everybody understood Congress was selecting its own sea, motions made to divide the year with the Mediterranean, and rejected, it would be altogether quite the case. But I beg your pardon for these platitudes. I *entreat* you to do two things: 1. Vindicate the sense of the law. 2. Vindicate art, taste, learning, genius, mind, history, ethnology, morals ———

"I am most anxiously and faithfully yours,

"R. CHOATE."

It cannot be denied that Mr. Choate,— author and successful defender of the library plan, as he was,— suffered a great disappointment in the final disposition of the fund. He felt that it by no means met the purpose of the Congress that passed the act; and, looking to permanent and comprehensive effects, would not be likely to secure a result so conspicuous, so noble, so worthy of the nation, so free from the possibility of perversion, or so directly meeting the great want of the learned, cultivated, inquisitive, and thoughtful throughout the whole land, as if mainly or largely devoted to a library.

In the spring of 1845 Mr. Choate lost his brother-in-law, Dr. Sewall, to whom in early life he had been so much indebted for advice and assistance, and whose house in Washington had often been his home. The following letter to his relative, Mrs. Brinley, who was then in Dr. Sewall's family, was written before the news of his death had reached Boston.

TO MRS. FRANCIS BRINLEY.

"Thursday, Fast Day, 1845.

"MY DEAR COUSIN SARAH, — No one can express my obligations to you for your faithful kindness and thoughtfulness during all this great affliction at the Doctor's. God bless you for it all. I have mourned deeply over the sad and surprising event, although I had again conceived the strongest hopes of his recovery. Give my best love to all who are alive. I wish my nephew, Thomas, would convey to his father, if living, my thanks and profound gratitude for a life of kindness to me, and would — as he will — soothe his mother. . . . . If you leave Washington, and this change happens at the Doctor's, it is a spot blotted forever from the earth. . . . . I know not what to write, because I know not how or what or who you all are. Pray accept my love, and give it to all our dear friends. How happy for you that Miss C., so agreeable, so composed, and so sympathetic, is with you. God bless you.

"R. CHOATE."

CHAPTER VI.

1845–1849.

Address before the Law School in Cambridge — Argues the Case of Rhode Island *v.* Massachusetts — Defence of Tirrell — The Oliver Smith's Will Case — Speaks in favor of General Taylor — Offer of a Professorship in the Cambridge Law School — Offer of a Seat upon the Bench — Defends Crafts — The Phillips Will Case — Journal.

On leaving the Senate, Mr. Choate for a time bade farewell to politics, and returned without regret to the narrower sphere of the city and the courts. He had become known for his intrepid and successful management of difficult cases. These were often intrusted to him when he would gladly have avoided the responsibility, if his sense of professional duty would have allowed; but he did not feel at liberty to refuse his services when properly solicited, merely because the cause was distasteful, or the client possibly undeserving of sympathy.

In the summer of this year, 1845, he delivered an address before the Law School at Cambridge, on the "Position and Functions of the American Bar in the Commonwealth." As this address will be found in these volumes, it is not necessary to speak of it here. In January, 1846, he argued before the Supreme Court at Washington the case of the boundary between Massachusetts and Rhode Island. The latter State was the complainant, and Massachusetts had made an answer. Evidence also had been taken by the parties, so that the case was heard upon both answer and evidence. The words of the Massachusetts charter defined the part of the boundary in question as "lying within the space of three English miles on the south part of Charles River, or of any or of every part thereof;" and the State of Rhode Island insisted that these words had been misconstrued and misapplied in former adjustments and agreements about the line, and particularly that mistakes had been made as to the location of some of the ancient stations. The case disclosed various acts and

proceedings between the respective governments, from the very earliest times, and thus opened a wide field of inquiry and discussion. "The case," says a correspondent, "was argued by Randolph and Whipple for Rhode Island, and Choate and Webster for Massachusetts. Mr. Randolph occupied three days in referring to and reading ancient grants and documents. Mr. Choate confined himself to that branch of the argument resulting from the two following points: — 1. The true interpretation of the charter. 2. The acts of 1718, 1718, &c., being acts of the State of Rhode Island of a most decisive character. But these points went to the very marrow of the case; and as illustrated, expanded, and enforced by Mr. Choate, with his remarkable diction, with his clear and searching analysis and his subtle logic, went far utterly to destroy the work of the preceding three days. Every one who heard that argument must have felt that there was something new under the sun; and that such a man as Mr. Choate had never been heard in that court before." The argument made a strong impression upon the judges. Judge Catron, it was said, was so much struck and charmed by it that it became a standing inquiry with him at the future sessions of the court, whether Choate was not coming on to argue some question. "I have heard the most eminent advocates," he said, "but he surpasses them all." It especially surprised him, as it did others, that the soil and climate of New England — sterile and harsh — should give birth to eloquence so fervid, beautiful, and convincing. Of this argument there remains no report; nor have any fragments of it been found among Mr. Choate's manuscripts.

In March, 1846, Mr. Choate made his celebrated defence of Albert J. Tirrell. He probably never made an argument at the bar under circumstances apparently more adverse, nor one which, from the nature of one part of the defence, and from his unlooked-for success, subjected him to so much criticism. He took the case in the natural way of business, being retained as for any other professional service. With Tirrell himself he never exchanged a word till the day of the trial.[1] The case was heard in Boston, before Justices Wilde, Dewey,

[1] He was generally averse to personal contact with his clients in criminal cases. In this instance, I have understood that after the prisoner was in

and Hubbard — venerable, one of them for age, and all of them for experience and weight of character. The principal facts as developed at the trial were the following: Between 4 and 5 o'clock on Monday morning, October 27, 1846, a young woman named Maria Bickford, was found dead in a house of bad repute, kept by one Joel Lawrence. Albert J. Tirrell, a person of respectable family and connections, but of vicious life, and already under indictment for adultery, was known to have been with her on the previous afternoon and late in the evening, the doors of the house having been locked for the night. He had long been a paramour of hers, and for her company had forsaken his own wife. On the morning spoken of, several inmates of the house were early roused by a cry coming apparently from the room occupied by these persons, followed by a sound as of a heavy body falling on the floor. Soon afterwards some one was heard going downstairs, making an indistinct noise as if stifled by smoke; and almost immediately those in the house were alarmed by the smell and appearance of fire. After the fire was extinguished, which was done by the help of a fireman and a neighbor, the body of Mrs. Bickford was found on the floor of the room she had occupied, and where the fire principally was, at some distance from the bed, her throat cut to the bone from ear to ear; her body much burnt; a considerable pool of blood upon the bed; a bowl upon a wash-stand in the corner of the room, with water in it, thick with blood; marks of blood upon the wash-stand, and the lamp on the mantel-piece; the bedclothes piled up in various places in the room and in the entry, and partly consumed; a bloody razor near the body; also, some stockings, a cravat, and a cane, belonging to Tirrell. Besides this, a fire had been kindled in an adjoining room which was not occupied that night. A woman in the next house, separated from Lawrence's by a brick partition, was waked that morning by a screech as from a grown child; but on listening heard the voice of a woman; then she heard a strangling noise, and afterwards a fall, and then a louder noise.

It was also in evidence that Tirrell had called in haste, very

the dock, he walked to the rail and said, "Well, Sir, are you ready to make a strong push for life with me to-day?" The answer, of course, was in the affirmative. "Very well," replied Mr. C., "we will make it," and turned away to his seat. He did not speak to him again.

early on that Monday morning, at a livery-stable near Bowdoin Square, saying that "he had got into trouble; that somebody had come into his room and tried to murder him," and he wanted a vehicle and driver to take him out of town. These were furnished, and he was driven to Weymouth. He also had called between four and five o'clock at the house of one Head, in Alden Court, not far from the livery-stable, and asked for some clothes which he had left there, saying that he was going to Weymouth. The officers who went in search of him on the same day did not succeed in finding him; but some months afterwards he was arrested in New Orleans, and brought to Boston for trial. The public were exasperated by the atrocity of the deed, were generally convinced of his guilt, and confident that he would be convicted. The crime could be charged upon no one else; and the evidence connected him with it so closely that there seemed to be no chance of escape.

Yet, in spite of the almost universal prejudgment, and of a chain of circumstantial evidence coiling about the prisoner which seemed irrefragable, his counsel, by throwing doubt upon the testimony of the government, as derived in part from witnesses of infamous character, by subtly analyzing what was indisputable, and demonstrating its consistency with a theory of innocence, by a skilful combination of evidence showing the possibility of suicide, or of murder by some other hand, and by a peculiar line of defence so singular and audacious that it seemed almost to paralyze the prosecuting officer, were able to convince the jury, and I believe the court and the bar, that he could not be *legally* convicted. It appeared, for the defence, that Tirrell was subject from his youth to what was called somnambulism; and that while in this state he made strange noises — a sort of groan or screech — loud and distressing; that he frequently rose and walked in his sleep; sometimes uttered words evidently prompted by dreams; and that once he pulled a companion with whom he was sleeping out of bed, stood over him and cried out, "Start that leader! start that leader, or I'll cut his throat!" and then walked to the door as if for a knife that had been placed over the latch; that on the morning of the asserted murder, when he went to Head's house, he appeared so strangely as to frighten those who saw him, and Head took hold of him and

shook him, when he seemed to wake up from a kind of stupor, and said, "Sam, how came I here?" It was also proved that when informed at Weymouth that he was charged with having committed the murder, he said that he would go to Boston and deliver himself up, but was dissuaded by his brother-in-law, who furnished him money to take him to Montreal. It was further proved that Mrs. Bickford, though beautiful and fascinating, was inclined to intemperance, was passionate and wicked, and often threatened to take her own life; that she was in the habit of having a razor with her for the purpose of shaving her forehead to make it high; and once had bought a dirk, and kept it concealed in her room. Physicians of the utmost respectability testified that the wound in the neck was one which could have been inflicted by the deceased herself; that extraordinary convulsive movements may be made after much of the blood has left the body, while still some remains in the head; that from the nature of the instrument, and the physical ability of the deceased, the death might have been suicide; that the prisoner appeared evidently to be a somnambulist or sleep-walker, and that in this somnambulic state a person can dress himself, can consistently commit a homicide, set the house on fire, and run out into the street. These were the strong points on which the argument of Mr. Choate was based. He contended that no motive had been shown for the deed, on the part of the prisoner; that the evidence did not contradict the idea of suicide; that no evidence had shown that a third party had not done the deed; and that if committed by the prisoner, it must have been done while in the somnambulic state. There is no record of this extraordinary argument. An imperfect sketch is found in some of the newspapers of the day, evidently not exact and accurate, and of course conveying no adequate idea of the variety of power brought to bear on the analysis of the evidence and its application, in overthrowing the theory of the government.

Mr. Choate often said that he meant to write out the argument, the materials of which existed; but he never carried this intention into effect, and a diligent search among his papers has failed to discover any trace of his brief. But in the imperfect notices to which we now have access, we see

evidence not only of the solemn and earnest manner which the case mainly required, and which he could render so impressive, but also of that occasional playful extravagance and witty allusion with which he was accustomed to relieve the anxious attention of the jury. Speaking of a witness for the government, called out of place, and after the defence was in, he said, "Where was this tardy and belated witness that he comes here to tell us all he knows, and all he doesn't know, forty-eight hours after the evidence for the defence is closed? Is the case so obscure that he had never heard of it? Was he ill, or in custody? Was he in Europe, Asia, or Africa? Was he on the Red Sea, or the Yellow Sea, or the Black Sea, or the Mediterranean Sea? Was he at Land's End, or John O'Groat's house? Was he with Commissioners on our north-eastern boundary drawing and defining that much vexed boundary line? Or was he with General Taylor and his army at Chihuahua, or wherever the fleeting south-western boundary line of our country may at this present moment be? No, gentlemen, he was at none of these places, (comparatively easy of access,) but — and I would call your attention, Mr. Foreman, to the fact, and urge it upon your consideration, — he was at that more remote, more inaccessible region, whence so few travellers return — Roxbury."

In showing a possibility that the crime could have been committed by a third person, he denounced with great severity and sarcasm the reckless and depraved character of most of the persons who appeared as witnesses, and the infamous nature of the house "not always so very hermetically sealed." In accounting for the position in which the body was found, he asserted, what the apparent diversity of testimony seemed to bear out, that all the particulars and horrors in that room on the morning of the homicide, had not been divulged, and that Lawrence himself might have snatched the body from the burning bed. So by suggestion after suggestion he threw suspicion over the theories of the government or diminished the credibility of its witnesses. In the argument for somnambulism, he produced a great impression by a quotation. "I beg leave of the court to read, as illustrative of my point of argument here, a passage from a good old book, which used to lie on the shelves of our good old fathers and mothers, and

shook him, when he seemed to wake up from a kind of stupor, and said, "Sam, how came I here?" It was also proved that when informed at Weymouth that he was charged with having committed the murder, he said that he would go to Boston and deliver himself up, but was dissuaded by his brother-in-law, who furnished him money to take him to Montreal. It was further proved that Mrs. Bickford, though beautiful and fascinating, was inclined to intemperance, was passionate and wicked, and often threatened to take her own life; that she was in the habit of having a razor with her for the purpose of shaving her forehead to make it high; and once had bought a dirk, and kept it concealed in her room. Physicians of the utmost respectability testified that the wound in the neck was one which could have been inflicted by the deceased herself; that extraordinary convulsive movements may be made after much of the blood has left the body, while still some remains in the head; that from the nature of the instrument, and the physical ability of the deceased, the death might have been suicide; that the prisoner appeared evidently to be a somnambulist or sleep-walker, and that in this somnambulic state a person can dress himself, can consistently commit a homicide, set the house on fire, and run out into the street. These were the strong points on which the argument of Mr. Choate was based. He contended that no motive had been shown for the deed, on the part of the prisoner; that the evidence did not contradict the idea of suicide; that no evidence had shown that a third party had not done the deed; and that if committed by the prisoner, it must have been done while in the somnambulic state. There is no record of this extraordinary argument. An imperfect sketch is found in some of the newspapers of the day, evidently not exact and accurate, and of course conveying no adequate idea of the variety of power brought to bear on the analysis of the evidence and its application, in overthrowing the theory of the government.

Mr. Choate often said that he meant to write out the argument, the materials of which existed; but he never carried this intention into effect, and a diligent search among his papers has failed to discover any trace of his brief. But in the imperfect notices to which we now have access, we see

evidence not only of the solemn and earnest manner which the case mainly required, and which he could render so impressive, but also of that occasional playful extravagance and witty allusion with which he was accustomed to relieve the anxious attention of the jury. Speaking of a witness for the government, called out of place, and after the defence was in, he said, "Where was this tardy and belated witness that he comes here to tell us all he knows, and all he doesn't know, forty-eight hours after the evidence for the defence is closed? Is the case so obscure that he had never heard of it? Was he ill, or in custody? Was he in Europe, Asia, or Africa? Was he on the Red Sea, or the Yellow Sea, or the Black Sea, or the Mediterranean Sea? Was he at Land's End, or John O'Groat's house? Was he with Commissioners on our north-eastern boundary drawing and defining that much vexed boundary line? Or was he with General Taylor and his army at Chihuahua, or wherever the fleeting south-western boundary line of our country may at this present moment be? No, gentlemen, he was at none of these places, (comparatively easy of access,) but — and I would call your attention, Mr. Foreman, to the fact, and urge it upon your consideration, — he was at that more remote, more inaccessible region, whence so few travellers return — Roxbury."

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which they were wont devoutly to read. This old book is 'Hervey's Meditations,' and I have borrowed it from my mother to read on this occasion. 'Another signal instance of a Providence intent upon our welfare,' (says that writer,) 'is, that we are preserved safe in the hours of slumber. . . . At these moments we lie open to innumerable perils: perils from the resistless rage of flames; perils from the insidious artifices of thieves, or the outrageous violence of robbers; perils from the *irregular workings of our own thoughts*, and especially from the incursions of our spiritual enemy. . . . Will the candid reader excuse me, if I add a short story, or rather a matter of fact, suitable to the preceding remark? Two persons who had been hunting together in the day slept together the following night; one of them was renewing his pursuit in his dream, and having run the whole circle of the chase, came at last to the fall of the stag. Upon this he cries out with determined ardor, "I'll kill him, I'll kill him," and immediately feels for the knife which he carried in his pocket. His companion happening to be awake, and observing what passed, leaped from the bed. Being secure from danger, and the moon shining bright into the room, he stood to view the event, when, to his inexpressible surprise, the infatuated sportsman gave several deadly stabs in the very place where, a moment before, the throat and the life of his friend lay. This I mention as a proof, that nothing hinders us, even from being assassins of others or murderers of ourselves, amid the mad follies of sleep, only the preventing care of our Heavenly Father. . . . O! the unwearied and condescending goodness of our Creator! who lulls us to our rest, by bringing on the silent shades, and plants his own ever-watchful eye as our sentinel, while we enjoy the needful repose.'"

In his exordium, alluding to the certainty that death would follow a verdict of guilty, he said, "Every juror, when he puts into the urn the verdict of 'guilty,' writes upon it also, 'Let him die.'" In the solemn and beautiful peroration, he, as it were, summed up his appeal in these words: "Under the iron law of old Rome, it was the custom to bestow a civic wreath on him who should save the life of a citizen. Do your duty this day, gentlemen, and you too may deserve the civic crown."

The verdict of the jury, after a deliberation of less than two hours, was "Not Guilty," a verdict which has been generally acquiesced in by the legal profession as the only one which the evidence would warrant, though at the commencement of the trial few could have supposed it possible. Mr. Choate suffered somewhat in the general estimation from the argument drawn from somnambulism. That, however, was a suggestion of the friends of the accused, accepted by the counsel and employed to the best of his ability, like any other capital fact. The foreman of the jury stated that the question of somnambulism did not enter into the consideration of the jury, and had not the public been disappointed and almost shocked by the result of the trial, we should probably have heard less criticism of the methods of the advocate.

As this case must take rank among the most celebrated in our country, for the audacity of the crime, for the pervading anxiety that the criminal should not escape, as well as for the power, brilliancy, and unexpected success of the defence, it is much to be regretted that no good report of it was ever made. No description, or statement of legal points, can enable one to reproduce the scenes, or feel the power by which the jury were brought so soon to their verdict of deliverance.

Although acquitted on the charge of murder, Tirrell was still under an indictment for arson. On this charge he was tried before Judges Shaw, Wilde, and Dewey in January, 1847. This trial, though of less celebrity than the first, was hardly less important or difficult. Nor was the ability of the defence less conspicuous. Every one noticed the hopeful and confident tone with which Mr. Choate opened his argument. He moved as if sure of success. Having thus, as by a magnetic influence, removed the pressure of doubt and apprehension, he proceeded to review the evidence, which was nearly the same as in the former trial, with the addition of one witness, who swore that she was in Lawrence's house that night and saw Tirrell going out between four and five o'clock in the morning. This new testimony, so important if true, damaged the case for the government by throwing doubt upon the credibility of the other witnesses, Lawrence having before sworn that no one was in his house that night but those who appeared on the stand. Mr. Choate argued that there was no proof of

arson at all; no proof of an intent to set the fire; it might have been done by Lawrence himself by accident; if done by Tirrell at all, it might have been done in a somnambulic state. He had no motive for the crime. "He was fascinated by the wiles of the unhappy female whose death was so awful; *he loved her with the love of forty thousand brothers*, though alas, it was not as pure as it was passionate." He argued again that Mrs. Bickford might have died by her own hand. "If the jury," he said, "are governed by the clamor raised by a few without the court-house, I must look upon the prisoner as in the position of one of those unfortunates on board the ill-fated 'Atlantic.' He was tossed upon the waters—struck out boldly and strongly in the wintry surge, was washed within reach of the ragged beach, and with one hand upon the crag, was offering up thanksgiving for his safety, when the waves overtook him and he was swept back to death."

"There is a day, gentlemen," he said in conclusion, "when all these things will be known. When the great day has arrived and the books are opened, it will then be known. But, gentlemen, let not your decision be then declared in the face of the world, to be a judicial murder."

The charge to the jury by Chief Justice Shaw, discrediting the government witnesses on account of disreputable characters and discrepancy of testimony, was favorable to the prisoner, who was again acquitted. It was wittily said afterwards that "Tirrell existed only by the sufferance of Choate."

In July, 1847, Mr. Choate argued, at Northampton, the Oliver Smith's will case. Mr. Smith died a bachelor at nearly eighty years of age, leaving an estate which was inventoried at $370,000. This he disposed of by a will creating a variety of charities which many people regarded as unwise and useless. He had a number of relations who had expected generous legacies. Some of them were needy; to others he was under obligations of kindness, and all of them felt that it was right to defeat the will, if it could legally be done. There was but one point at which an attack seemed to offer any chance of success. One of the witnesses to the will had lived so secluded from society, and had conducted himself so singularly, that he was reputed to be insane. If it could be shown that he was insane at the time the will was made, he would of course be incom-

petent and the will would fail. But the fact that he avoided intercourse with everybody not belonging to his own family, made it difficult to obtain evidence. The heirs at law determined, however, to appeal from the decree of the Probate Court which approved the will, on the ground that it was not attested by three competent witnesses. For the heirs appeared Mr. Choate, R. A. Chapman, and C. P. Huntington. For the executors, Daniel Webster, C. E. Forbes, and Osmyn Baker. The court-room was crowded as densely as men and women could sit and stand. The evidence was decisive that a year before the will was made, the witness was regarded by the Superintendent of the State Asylum as insane, but at the period in question, the evidence though conflicting, was in his favor. He himself was put upon the stand, and sustained by the presence of his powerful counsel, gained much by his appearance. There is no report of the arguments on this interesting trial, but I am able to give the impression made upon the mind of an able lawyer who was present and indirectly opposed to Mr. Choate.[1]

"Though I took no active part in the trial of the 'Smith Will Case,' I was engaged somewhat in the antecedent preparation and thus brought nearer than I otherwise might have been, to the great leaders on that occasion. . . . I had never till then seen or heard Mr. Choate, when opposed to Mr. Webster before the jury. It was a case, moreover, where, at the start, he must have felt how desperately the odds were against him on the merits, and how necessary it was in the presence of a thronged court-house of new hearers, and of such an antagonist, that his genius should not falter; and surely his exhaustless resource never responded more prodigally to his call. He spoke for three hours, as, it seems to me, never man spake. Mr. Webster, on the contrary, after a certain critical point in the production of the evidence was passed, felt that he had an easy case and a sure victory. I thought there was on his part rather an affectation of serenity — of deliberateness and even homeliness of address — an effort at self-suppression, perhaps, as if studying more to divert the jury by the contrasted manner of the men before them, than to rival his adversary in any of the subtle or fascinating

[1] Hon. Charles Delano.

arts of oratory. There were in fact only two or three passages in Mr. Webster's speech where he seemed to startle the bewildered twelve, by a power at all proportioned to his fame. And if the verdict had been taken before the charge, the result would have been doubtful. But the dry and utterly passionless analysis of the evidence by old Judge Wilde, made the jury soon to see how narrowly they had escaped finding an impulsive, if not a foolish verdict. I speak of course with the biases of a *retainer* against Mr. Choate's side.

"You will observe that the single issue on the trial was, whether the third witness to the will was, or was not, of sufficient mental soundness at the time of attestation. This witness was a young man just out of college, — the son of a gentleman of intelligence, education, and of the highest respectability, but a noted hypochondriac, and the grandson of that chief of hypochondriacs, not less than of justices, Theophilus Parsons, of the Massachusetts Bench.

"Mr. Choate converted these incidents into one of his finest episodes. He gave us the Chief Justice in his most exalted intellectual frame; but then how ingeniously did he darken the canvas with all the horrors of that great man's morbid delusions! Surely the jury were not to believe that a malady thus foreshadowed, when added to and aggravated by the channel of transmission, could issue in anything less than necessary and utter mental overthrow! His theory might have gained assent, had it not been that the questionable witness was himself in court. His whole demeanor and expression, however, were those of a man absorbed in melancholy; and I think Mr. Choate's side had, from the outset, staked their expectations upon the miscarriage of this witness on the stand. In the first place, would the party setting up the will dare to call him? If not, it would be a confession of at least present incompetency. If they should, how probable that so consummate a cross-examiner would easily reach the clew to his distractions, and thus topple him from any momentary self-possession. It was in taking this timid and reluctant witness into his own hands, and bringing him to feel that he was testifying under the shelter of the great 'Defender' himself, that Mr. Webster figured more conspicuously than in any other part of the case. Thus borne up and through a long direct

examination, he braved the cross-examination with perfect composure. This was the critical point of the case to which I have before alluded. I know I am spinning out this note to a merciless length, but my apology is, that reminiscences of Mr. Choate are among the most delightful memories of the lawyer. Few who have ever known him can dwell upon his death otherwise than as upon a personal and domestic affliction; and I count it among the chief felicities of my life, not merely to have heard him at the Bar, but to have seen him in his office, had a glimpse of him at home among his books, and listened to him at his fireside."

Mr. Webster and Mr. Choate were often very playful towards each other during this trial, as they usually were when engaged together in the same case. "My position," said one of the junior counsel,[1] "happened to be between them; and as it was the first time I had ever seen them opposed to each other, I was not a careless observer of either. Mr. Choate seemed to know Mr. Webster's ways thoroughly; and I was sometimes amused by the shrewd cautions he gave me. Mr. Webster laughed at him about his handwriting, telling him his notes were imitations of the antediluvian bird-tracks. While he was making his argument, Mr. Webster repeatedly called my attention in a whisper to his striking passages. He once asked me in respect to one of them, 'How do you suppose I can answer that?' And once when he used the word 'abnormal,' Mr. Webster said, 'Didn't I tell you he would use the word "abnormal" before he got through? He got it in college, and it came from old President Wheelock.' . . . . After the trial was over, Mr. Webster spoke very freely of Mr. Choate, in a private conversation at our hotel, and expressed the highest admiration of him. He said he often listened to him with wonder; and that when he argued cases at Washington, the judges of the Supreme Court expressed their amazement at the brilliancy and power of his oratory, even in the discussion of dry legal points. He said they had often mentioned it to him."

It was understood that in this case the jury stood at first,

[1] Hon. Reuben A. Chapman, now one of the Judges of the Supreme Court of Massachusetts.

ten for the will, and two against it; on the third ballot they agreed.

In the political campaign of 1848, which resulted in the election of Gen. Taylor, Mr. Choate took a prominent and willing part. In the character and life of Gen. Taylor, his modesty and integrity, his capacity in extraordinary emergencies, his courage, his unobtrusive patriotism, and his brilliant victories, there was much to awaken enthusiasm as well as to command respect. The speeches of Mr. Choate before the election are among the most effective he ever made in this style of ephemeral political oratory. With a sound substratum of judicious thought and argument, they fairly effervesce with wit and raillery.

One of these was made at Brookline. "He had been a week," writes a gentleman who went with him to the place, "preparing his oration, and was well-nigh used up. He got into the coach, his locks dripping with dissolved camphor, and complained of a raging headache. He clutched his temple with his hand, and leaned his head on my shoulder, to see if he could not, by reclining, find ease. Just as we touched the Mill Dam, the evening moon poured her level rays over the beautiful waters of the Back Bay, and filled the coach and atmosphere with dreamy light. The scene instantly revived him. He put his head out of the coach window, and was absorbed with the sweetness of the view. The sight of the still waters, moon-lighted, seemed to drive away his pain, and he struck into his old rapture. In the hall where he spoke, he was in his very best mood; both mind and body seeming to be on wings. . . . As we rode home in the soft moonlight, he amazed me with his vast power of thought. I have seen men stirred with passion; men eloquent; men profound and brilliant in conversation; but in the whole course of my life I never saw a man more roused than was he. He poured out, without stopping, a torrent of conversation upon history, constitutional law, philosophy, poetry; upon Burke, Plato, Hamilton, the future of the Union. No other word would explain his style but 'torrent' or 'cataract;' for what he spoke in that hour would have made a small volume, — brilliant and full of philosophy and learning. And I think that I never realized so much as then the power and unapproachableness of genius;

and yet the man — though so burning up and absorbed with his subjects of conversation — was true to his gentle instincts. His daughter lay ill at home; and in Summer Street, at a long distance from his house in Winthrop Place, he bade the coachman stop to allow him to walk to his door, so that the noise of the carriage might not disturb her; insisting, at the same time, against my request to the contrary, that the coach should carry me home, though I lived in a different part of the city."

Besides this, he addressed a mass meeting at Worcester, and spoke twice at Salem,—the second time on the presentation of a banner bearing on one side the inscription, "Presented to the Taylor Club by the Ladies of Salem, Oct. 17, 1848," and on the other, a representation of Gen. Taylor giving relief to a wounded Mexican, with the words "HONOR —PATRIOTISM — HUMANITY." The assembly was brilliant even for that city, and greeted him with the fervor of friends. The applause subsiding, he addressed the chairman of the Club in words of beauty which foreshadow what became afterwards the very heart of his political life.

"It has been supposed, Sir, by that better portion of this community, the ladies of Salem, that it would not be unpleasing to the association of Whigs, over which you preside, to pause for an hour from the austerer duties of the time, and to be recreated by receiving at their hands an expression of that kind of sympathy which man needs most, and a tender of that kind of aid which helps him farthest, longest, and most gratefully, — the sympathy and approval of our mothers, wives, sisters, daughters, and those, all, whom most we love. Under that impression they have prepared this banner, and have requested me to present it, as from them, to you. With a request so grateful, from its nature and source, I am but too happy to comply. . . . . .

"I give you, from the ladies of this Salem, — the holy and beautiful city of peace, — a banner of peace! Peace has her victories, however, as well as war. I give you, then, I hope and believe, the banner of a victory of peace. The work of hands, some of which you doubtless have given away in marriage at the altar, — the work of hands, for which many altars might contend! some of which have woven the more immor-

tal web of thought and recorded speech, making the mind of Salem as renowned as its beauty,—the work of such hands, embodying their general and warm appreciation of your exertions, and their joy in your prospects; conveying at once the assurance of triumph and the consolations of possible defeat; — expressive above all of their pure and considered moral judgments on the great cause and the Good Man! — the moral judgments of these, whose frown can disappoint the proudest aim, whose approbation prosper not less than ours; — the work of such hands, the gift of such hearts, the record of such moral sentiments, the symbol of so many sensibilities and so many hopes, you will prize it more than if woven of the tints of a summer evening sunset, inscribed and brought down to earth by viewless artists of the skies.

"Prizing it on all reasons, I think you are too much a Whig not to derive, in receiving it, a peculiar pleasure from this consideration, that it expresses the judgments of this portion of the community on the personal qualities and character of Gen. Taylor. It expresses their judgments in favor of those qualities and that character. It assures us that we are not mistaken in the man himself. It assures us that we are right in believing him just, incorrupt, humane; of large heart, as well as clear head, — whose patriotism knows neither Alleghanies nor Mississippi, nor Rocky Mountains, embracing our whole America, — from whom twenty thousand Mexicans could not wrest the flag of his country, yet whom the sight of a single Mexican soldier, wounded and athirst at his feet, melts, in a moment, to the kindness of a woman.

"I do not suppose that I enter on any delicate or debatable region of social philosophy, sure I am that I concede away nothing which I ought to assert for our sex, when I say that the collective womanhood of a people like our own, seizes with matchless facility and certainty on the moral and personal peculiarities and character of marked and conspicuous men, and that we may very wisely address ourselves to her to learn if a competitor for the highest honors may boast, and has revealed, that truly noble nature that entitles him to a place among the cherished regards, a niche among the domestic religions, a seat at the old hearths, a home in the hearts of a nation.

"We talk and think of measures; of creeds in politics; of availability; of strength to carry the vote of Pennsylvania, or the vote of Mississippi. Through all this her eye seeks the moral, prudential, social and mental character of the man himself, — and she finds it.

"All the glare and clamor of the hundred victories of Napoleon, — all the *prestige* of that unmatched intellect, and that fortune and that renown, more than of the children of earth — while they dazzled the senses, and paled the cheek of manhood — could not win him the love and regards of the matronage of France. The worship of Madame de Staël was the idiosyncrasy of an idolatress of genius, glory, and power, — and she paid it alone.

"But when the Father of his Country, our Washington, arrived, on his way to the seat of Government, at that bridge of Trenton, how sure and heart-prompted was the recognition, by the mothers and daughters of America, of that greatness which is in goodness, and of the daily beauty of that unequalled life. Those flowers with which they strewed his path, while they sung that ode, — that laurel and evergreen which they twined on arch and pillar for him to pass beneath, had not found the needful air and light and soil in which they had sprung with a surer affinity than these had detected and acknowledged the sublimity of the virtues, the kindness, the parental love, the justice, the honesty, the large American heart, that made his 'fame whiter than it was brilliant.'

"I hear then, with pleasure not to be expressed, this testimony — from such a source — to the candidate of our choice. I appreciate the discernment that has contrived this device, and written this inscription. Right and fit it is, that such praise as theirs should commemorate his *Honor*, who has done so much to fill the measure of his country's glory, — his *Patriotism*, on whose heart her love has burned in youth, in manhood, ever bright as on an altar, — his *Humanity*, in whose regards this cup of water, pressed to the lip of the wounded prisoner, is a sweeter memory than the earthquake voice of many campaigns of victory!

"There are three more traits of his character, three more fruits of his election, which the authors of this Gift discern and appreciate.

"They expect, first, that his will be an administration of honorable peace. The experiences of war have more than sated him of that form of duty and that source of fame. From many a bloody day and field — too many — he turns to win a victory of peace. He seeks to set on that brow a garland — amaranthine and blameless — compared to which the laurels that a Cæsar reaps are weeds. . . . .

"They expect, next, that his administration will be illustrated by the true progress of America. . . . They expect to see it coöperating, as far as it may, with the spirit of Humanity in achieving the utmost measure of good, of greatness, of amelioration, of happiness, of which philanthropy and patriotism may dare to dream. And thus they look to an administration of progress. But progress, in their view and in yours, does not consist, and is not exemplified, in adding, every three or four years, to our already imperial area, a country three times larger than all France, and leaving it a desert; but in decorating and building up what we have. Their idea of progress, therefore, and yours, embraces a twofold sentiment, and a twofold exertion: first, to improve the land and water, — to bring out the material resources of America; and next, to improve the mind and heart of America; diffusing thus over her giant limbs and features the glow and grace of moral beauty — as morning spread upon the mountains. . . . .

"They expect, finally, that his administration will be memorable for having strengthened and brightened the golden chain of the American Union. They expect that, under the sobriety of his patriotism, that Union will neither be sapped by the expansion of our area, until identity, nationality, and the possibility of all cohesion of the members are lost, nor rent asunder by the desperate and profligate device of geographical parties. — They and we, Sir, of that Union, deem all alike. We too stand by the shipping-articles and the ship the whole voyage round. We hold that no increase of our country's area, — although we hope never to see another acre added to it; no transfer and no location of our centre of national power, — although we hope never to see it leave the place where now it is; no accession of new stars on our sky — were they to come in constellations, thronging, till the firmament were in a blaze; that none of these things should have power to

whisper to one of us a temptation to treason. We go for the Union to the last beat of the pulse and the last drop of blood. We know and feel that there — there — in that endeared name — beneath that charmed Flag — among those old glorious graves, in that ample and that secure renown, — that there *we have garnered up our hearts — there we must either live, or bear no life.* With our sisters of the Republic, less or more, we would live and we would die, — 'one hope, one lot, one life, one glory.'"

The subsequent election of General Taylor gave to Mr. Choate the greatest delight. It seemed to him, indeed, a triumph of HONOR, PATRIOTISM, HUMANITY. On the evening when the intelligence was received that made the matter certain, he said to a friend who called to see him: — "Is not this sweet? Is it not sweet? The whole country seems to me a garden to-night, from Maine to New Orleans. It is fragrant all over, and I am breathing the whole perfume."

About this time a position as Professor in the Law School at Cambridge was urged upon Mr. Choate in a manner so sincere, so unusual and so honorable to all parties, that I am especially glad to be permitted to present the facts in the words of one who knew them familiarly, — the late Chief Justice Shaw.

"After the reorganization of the Law School at Harvard College, by the large donation of Mr. Dane, and the appointment of Mr. Justice Story as Dane Professor, the school acquired a high reputation throughout the United States. It was regarded as an institution to which young men could be beneficially sent from every part of the country to be thoroughly trained in the general principles of jurisprudence, and the elementary doctrines of the common law, which underlie the jurisprudence of all the States. This reputation, which is believed to be well founded, was attributable, in a great measure, to the peculiar qualifications, and to the efficient services of Judge Story, in performing the duties of his professorship. It was not so much by his profound and exact knowledge of the law in all its departments, nor by his extensive knowledge of books, ancient and modern, that the students were benefited, as by his earnest and almost impetuous eloquence, the fulness and clearness of his illustrations with which he awakened

the aspirations, and impressed the minds, of his youthful hearers. He also demonstrated in his own person how much may be accomplished by a man of extraordinary talent and untiring industry, — having successfully and faithfully performed the duties of his professorship, being engaged at the same time in two other departments of intellectual labor, that of Judge of the Supreme Court of the United States, and author of elaborate treatises on the science and practice of law, — each of which would seem sufficient to require the exclusive attention of a very industrious man.

"Some time after the decease of Judge Story, whether immediately, or after the lapse of two or three years, I do not know, but as near as I recollect, about the year 1848, the attention of the President and Fellows of Harvard College was turned to Mr. Choate, at once an eminent jurist and an advocate conspicuous for his commanding and persuasive eloquence, whose services, if they could be obtained, would render him eminently of use in the Dane Law School. Indeed he was too prominent a public man to be overlooked, as a candidate offering powers of surpassing fitness for such a station. But it was never supposed by the Corporation, that the comparatively retired position of a College Professor, and the ordinary, though pretty liberal emoluments of such an office, could induce Mr. Choate to renounce all the honors and profits of the legal profession which rightly belonged to him, as Leader of the Bar in every department of forensic eloquence. But about the time alluded to Mr. Choate having retired from political life, was apparently devoting himself ardently and exclusively to the profession of the law as a jurist and advocate. It was thought by the Corporation that a scheme might be arranged, if it suited his tastes and satisfied his expectations of professional eminence, which would secure to the Law School of the University the benefit of his great talents, place him conspicuously before the whole country, and afford to himself the immunities and the reputation of a great jurist and advocate.

"It was the opinion of the members of the Corporation, that in appointing instructors for an academical institution, designed to instruct young men in the science of jurisprudence, and in part to fit them for actual practice in the administration

of the law in courts of justice, (an opinion I believe, which they hold in common with many who have most reflected on the means of acquiring a legal education,) it is not desirable that an instructor in such institution should be wholly withdrawn from practice in courts. Law is an art as well as a science. Whilst it has its foundation in a broad and comprehensive morality, and in profound and exact science, to be adapted to actual use in controlling and regulating the concerns of social life, it must have its artistic skill which can only be acquired by habitual practice in courts of justice. A man may be a laborious student, have an inquiring and discriminating mind, and have all the advantage which a library of the best books can afford, and yet, without actual attendance on courts, and the means and facilities which practice affords, he would be little prepared either to try questions of fact, or argue questions of law. The instructor, therefore, who to some extent maintains his familiarity with actual practice, by an occasional attendance as an advocate in courts of justice, would be better prepared to train the studies and form the mental habits of young men designed for the Bar.

"No formal application was made to Mr. Choate, but a plan was informally suggested to him, with the sanction of the Corporation, and explained in conversation substantially to the following effect: According to the plan of the Law School of the College, there are two terms or sessions in the year, of about twenty weeks each, with vacations intervening of about six weeks each. The first or Autumn term commences about the 1st of September, and closes near the middle of January; the Spring term commences about the 1st of March, and continues to July. The exercises during term-time consist of daily lectures and recitations, conducted by the several professors, of moot courts for the discussion of questions of law, deliberative oral discussions, in the nature of legislative debates; some written exercises also, on questions and subjects proposed, make up the course of training. Instructions in these exercises were given in nearly equal proportions by three professors, of whom the Dane Professor was one. The moot courts and deliberative discussions were uniformly presided over by one of the professors.

"At the time referred to, the Supreme Court of the United

States commenced their annual session the first week in December, and continued to about the middle of March. It was thought, that without any perceptible derangement of the course of instruction in the Law School, the duties of the Dane Professorship might be so modified as to enable Mr. Choate to attend the Supreme Court of the United States at Washington during their whole term. The duties of the three professors are not such as to require the attendance of each, on every day of the term; nor is it essential that the different departments of the duties assigned to them respectively should be taken up in any exact order. Then by an arrangement with the other professors, the subjects specially committed to the Dane Professor, and his proportion of all other duties, might be taken up and finished in the early part of the Autumn term, so that without detriment to the instruction, he might leave it several weeks before its termination, and in like manner, postpone them a few weeks at the commencement of the Spring term, so that with the six weeks' vacation in mid-winter, these curtailments from the two terms would equal in length of time that of the entire session of the National Supreme Court.

"The advantages to Mr. Choate seemed obvious. When it was previously known that he might be depended on to attend at the entire term of the Supreme Court, we supposed he would receive a retainer in a large proportion of the cases which would go up from New England, and in many important causes from all the other States. The effect of this practice upon the emoluments of his profession might be anticipated. No case, we believe, whether in law, equity, or admiralty, can reach the Supreme Court of the United States until the case, that is, a statement of all the facts on which questions may arise, is reduced to writing in some form, embraced in the record.

" He would therefore have ample opportunity, with his case before him, and with the use of the best Law Library in the country, and the assistance of a class of young men ever eager to aid in seeking and applying authorities, and proposing cases for argument, to avail himself of all the leisure desirable at his own chambers, to study his cases thoroughly, and prepare himself for his arguments. The extent to which such

a practice with such means would soon add to the solid reputation of Mr. Choate, may easily be conceived, especially by those who knew the strength of his intellectual power, and the keenness of his faculty for discrimination. The advantages to the Law School contemplated by this arrangement were, that Mr. Choate would not only bring to the institution the persuasive eloquence, and the profound legal learning which he then possessed, but by an habitual practice in one of the highest tribunals in the world, a tribunal which has jurisdiction of more important public and private rights than any other, he would keep up with all the changes of the times, in jurisprudence and legislation, and bring to the service of his pupils the products of a constantly growing experience.

"But this plan, in the judgment of the Corporation, necessarily involved Mr. Choate's residence at Cambridge, and an entire renunciation of all jury trials, and all other practice in courts, except occasionally a law argument before the Supreme Court of the State at Boston or Cambridge, each being within a short distance of his home. It has been considered important by the Corporation that the Professors of the Law School should reside in Cambridge, to afford thereby the benefit of their aid and counsel in the small number composing the Law Faculty. In the case of Mr. Choate, it was considered quite indispensable that he should reside in Cambridge, on account of the influence which his genial manners, his habitual presence, and the force of his character would be likely to exert over the young men drawn from every part of the United States to listen to his instructions. There was another consideration leading, in Mr. Choate's case, to the same result, which was, that the breaking off from the former scenes of his labors and triumphs, so necessary to his success in the plan proposed, would be more effectually accomplished by his establishing at once a new residence, and contracting new habits. Both considerations had great weight in inducing those who communicated with Mr. Choate, to urge his removal to Cambridge, and the fixing there of his future residence, as essential features of the arrangement.

"Mr. Choate listened attentively to these proposals and discussed them freely; he was apparently much pleased with the

brilliant and somewhat attractive prospect presented to him by this overture. He did not immediately decline the offer, but proposed to take it into consideration. Some time after, perhaps a week, he informed me that he could not accede to the proposal. He did not state to me his reasons, or if he did, I do not recollect them."

It was not far from this time, also, that Mr. Choate received from Gov. Briggs the honorable offer of a seat upon the bench of the Supreme Court. It was urged upon him by some of his friends, as affording him the rest which he seemed to need. But he felt that he could hardly afford to take it, and after due consideration, respectfully declined.

In March of this year — 1849 — he delivered before the Mercantile Library Association the closing lecture of the winter course. The first two volumes of Mr. Macaulay's brilliant history had been but recently published; and availing himself of the newly awakened interest, he chose for his subject one always fresh to himself, "Thoughts on the New England Puritans." A short extract, comparing the public life of that day with ours, will indicate the tone and spirit of the whole.

"In inspecting a little more closely the colonial period of 1688, than heretofore I ever had done, it has seemed to me that the life of an able, prominent, and educated man of that day in Massachusetts was a life of a great deal more dignity, interest, and enjoyment than we are apt to imagine; that it would compare quite advantageously with the life of an equally prominent, able, and educated man in Massachusetts now. We look into the upper life of Old England in 1688, stirred by the scenes — kindled and lifted up by the passions of a great action — the dethronement of a king; the crowning of a king; the vindication and settlement of English liberty; the reform of the English constitution, — parent of more reform and of progress without end, — and we are dazzled. Renown and grace are there; the glories of the Augustan age of English letters, just dawning; Newton first unrolling the system of the Universe; the schoolboy dreamings of Pope and Addison; the beautiful eloquence and more beautiful public character of Somers waiting to receive

that exquisite dedication of the Spectator; the serene and fair large brow of Marlborough, on which the laurels of Blenheim and Malplaquet had not yet clustered. We turn to the Colonial life of the same day, and it seems at first as if it could not have been borne for half an hour. What a time of small things, to be sure, at first it appears to be. The sweet pathos, the heroical interest of the landing at Plymouth, of the journey to Charlestown, are gone; the grander excitations of the age of Independence are not yet begun to be felt; hard living; austere manners; provincial and parochial insignificance; stupendous fabrics of witchcraft, and disputes of grace and works; little tormentings of Quakers and Antinomians; synods to build platforms, on which nothing would stand; fast days for sins which there was no possibility to commit, and thanksgivings for mercies never received; these at first sight seem to be the Massachusetts life of that day. But look a little closer. Take the instance of an educated public man of Massachusetts about the year 1688, — a governor; a magistrate; an alumnus of Harvard College, learned in the learning of his time; a foremost man, — and trace him through a day of his life. Observe the variety and dignity of his employments; the weight of his cares; the range of his train of thought; his resources against ennui and satiety; on what aliment his spiritual and intellectual nature could feed; appreciate his past, his present, and his future, and see if you are quite sure that a man of equal ability, prominence and learning is as high or as happy now.

"First, last, midst, of all the elements of interest in the life of such a man was this: that it was in a just and grand sense, a public life. He was a public man. And what sort of a public man, — what doing in that capacity? This exactly. He was, he felt himself to be — and here lay the felicity of his lot, — he was in the very act of building up a new nation where no nation was before. The work was in the very process of doing from day to day, from hour to hour. Every day it was changing its form under his eye and under his hand. Instead of being born ignominiously into an established order of things, a recognized and stable State, to the duties of mere conservation, and the rewards

of mere enjoyment, his function he felt to be that rarer, more heroical, more epic — to plant, to found, to construct a new State upon the waste of earth. He felt himself to be of the *conditores imperiorum*. Imperial labors were his; imperial results were his. Whether the State, (that grandest of the works of man — grander than the Pyramids, or Iliads, or systems of the Stars!) — whether the State should last a year or a thousand years, — whether it should be contracted within lines three miles north of the Merrimack, three miles south of the Charles, and a little east of the Hudson, or spread to the head waters of the Aroostook, and St. John, and the springs of the Merrimack among the crystal hills of New England, and to the great sea on the west; — whether a Stuart and a Papist king of England should grasp its charter, or the bayonet or tomahawk of French or Indians quench its life; — whether if it outlived, as Jeremy Taylor has said, 'the chances of a child,' it should grow up to be one day a pious, learned, well-ordered, and law-abiding Commonwealth; a freer and more beautiful England; a less tumultuary and not less tasteful Athens; a larger and more tolerant Geneva; or a school of prophets — a garden of God — a praise — a glory; all this seemed to such a man as I have described, as he awoke in the morning, to depend appreciably and consciously on what he might do or omit to do, before he laid his head on his pillow that very night. Public life in Massachusetts that day did not consist in sending or being sent to Congress with a dozen associates, to be voted down in a body of delegates representing half of North America. Still less was it a life of leisure and epicureanism. This man of whom I speak, within the compass of a single twenty-four hours, might have to correspond with Connecticut, Rhode Island, and Plymouth Colony, and the Royal Government of New Hampshire, upon the subject of boundary lines, — the boundary lines of States, as against one another wholly independent, — a dignified and historical deliberation; to collate and to draw practical conclusions from all manner of contradictory information touching movements of Indians at Casco Bay and the Penobscot; to confer with Sir William Phipps about the raising of troops to attack Port Royal or Quebec; to instruct the agent of the

Colony, who was to sail for England next morning, to watch the course of the struggle between the last of the Stuarts, the people of England, and the Prince of Orange, or to meditate his report from London; to draw up a politic, legal, and skilful address to his king's most excellent and blessed majesty, to show that we had not forfeited the life of the charter and the birthright of English souls; to take counsel on the state of the free schools, the university, and the law; to communicate with some learned judge on the composition of our decennial twelve tables of the jurisprudence of liberty; to communicate with learned divines — the ardent Mathers, father, and son, and with Brattle — on the ecclesiastical well-being of the State, the aspects of Papacy and Episcopacy, the agencies of the invisible world, the crises of Congregationalism, the backslidings of faith for life, and all those wayward tendencies of opinion, which, with fear of change, perplexed the church.

Compare with the life of such an one the life of a Massachusetts public man of this day. How crowded that was; how burthened with individual responsibility; how oppressed with large interests; how far more palpable and real the influence; how much higher and wider the topics; how far grander the cares! Why, take the highest and best Massachusetts public men of all among us. Take his Excellency. What has he to do with French at Port Royal, or Indians at Saco, or Dutch on the Hudson? How much sleep does he lose from fear that the next steamer will bring news that the Crown of England has repealed the Constitution of Massachusetts? When will he lie awake at dead of night to see Cotton Mather drawing his curtain — pale as the ghost of Banquo — to tell him that witchcraft is celebrating pale Hecate's offerings at Danvers? Where is it now — the grand, peculiar charm — that belongs ever to the era and the act, of the planting and infancy of a State? Where — where now — those tears of bearded men; the faded cheek; the throbbing heart; the brow all furrowed with imperial lines of policy and care, — that give the seed to earth, whose harvest shall be reaped when some generations are come and gone?"

During the summer of the same year, the Phillips Will Case,

as it was called, was argued by him at Ipswich. It involved the disposal of nearly a million of dollars. The will was dated at Nahant, where Mr. Phillips had his residence, October 9, 1847. He soon after left for Europe, and the next year, having returned, put an end to his own life in Brattleborough, Vt., June 28, 1848. It was found on examination that after giving considerable sums to his mother and sisters, a hundred thousand dollars to the Observatory in Cambridge, and several minor bequests to his friends, he left the bulk of his property to a relative, who was already prospectively very wealthy. The heirs at law disputed the will on the grounds — 1st, of the insanity or imbecility of the testator; 2d, that an undue influence had been exercised over him; and 3d, that the will was void because executed on a Sunday. It is seldom that an array of counsel of such eminent ability is seen at once in court. For the heirs at law, appeared W. H. Gardiner, Joel Parker, and Sydney Bartlett. For the executors, Rufus Choate, Benj. R. Curtis, and Otis P. Lord. After a searching examination of witnesses and documents, protracted through a whole week, the arguments were made by Mr. Gardiner on one side and Mr. Choate on the other. That it was one of Mr. Choate's ablest and most conclusive arguments, conceived in his best vein, and conducted with consummate skill and eloquence, is the testimony of all who were present. To those who never heard him before, it was a new revelation of the scope and power of legal eloquence. Unfortunately it perished with the breath that uttered it. Nothing remains to attest its ability but its success. The decision of the jury on every point was in favor of the will.

Soon after leaving the Senate, Mr. Choate entered upon a course of careful study for the purpose of a more thorough self-discipline. He began to translate Thucydides, Demosthenes, and Tacitus. He marked out a course of systematic reading, and resolutely rescued hours of daily labor, from sleep, from society, from recreation. Under the date of October, 1845, he says, "I am reading, meditating, and translating the first of Greek historians, Thucydides. I study the Greek critically in Passow, Bloomfield, and Arnold, and the history in Mitford, Thirlwall, Wachsmuth, Hermann, &c., &c., and translate faithfully, yet with some attention to English

words and construction; and my purpose is to study deeply the Greece of the age of Pericles, and all its warnings to the liberty and the anti-unionisms of my own country and time."

Several fragments of journals, and sketches of promised labor, without dates, seem referable to the years between 1845 and 1850, and may be inserted here. They show the diligent efforts at self-culture in the midst of entangling and exhausting labors.

"VACATIONS. — PRIVATE. — HINTS FOR MYSELF.

"It is plain that if I am to do aught beyond the mere drudgery of my profession, for profit of others or of myself; if I am to ripen and to produce any fruit of study, and to construct any image or memorial of my mind and thoughts, it must be done or be begun quickly. To this I have admonition in all things. High time — if not too late — it is to choose between the two alternatives — to amuse — scarcely amuse, (for how sad and *ennuyant* is mere desultory reading!) such moments of leisure as business leaves me, in various random reading of good books, or to gather up these moments, consolidate and mould them into something worthy of myself, which may do good where I am not known, and live when I shall have ceased to live — a thoughtful and soothing and rich printed page. Thus far — almost to the Aristotelian term of utmost mental maturity — I have squandered these moments away. They have gone — not in pleasure, nor the pursuit of gain, nor in the trivialities of society — but in desultory reading, mainly of approved authors; often, much, of the grandest of the children of Light — but reading without method and without results. No doubt taste has been improved, sentiments enlarged, language heightened, and many of the effects — inevitable, insensible, and abiding of liberal culture, impressed on the spirit. But for all this, who is better? Of all this, who sees the proofs? How selfish and how narrow the couch of these gratifications! How idle the strenuousness of daily labor! How instantly the air will close on this armed path! How sad, how contemptible, that no more should be left of such a life, than of the commonplace and vacant and satisfied, on this side and that! I have been under the influence of such thoughts, meditating the choice of the alternative. I would arrest these moments, accumulate them, transform them into days and years of remembrance! To this end, I design to compose a collection of papers which I will call *vacations*. These shall embody the studies and thoughts of my fitful, fragmentary leisure. They shall be most slowly and carefully written — with research of authors, with meditation, with great attention to the style — yet essay-like, various, and free as epistles. I call them vacations, to intimate that they are the fruits of moments withdrawn from the main of life's idle business, and the performances of a mind whose chief energies are otherwise exercised. The subjects are to be so various as to include all things of which I read or think *con amore*, and they are to be tasks, too, for reviving, re-arranging, and increasing the acquisitions I have made. My first business is to prepare an introductory and explan-

atory paper for the public, — as this is for myself, — and then to settle something like a course of the subjects themselves. Such a course it will be indispensable to prescribe, nearly impossible to adhere to. Single topics are more easily indicated. The Greek orators before Lysias and Isocrates — Demosthenes, Æschines, Thucydides, the Odyssey, Tacitus, Juvenal, Pope — supply them at once; Rhetoric, conservatism of the bar, my unpublished orations, the times, politics, reminiscences — suggest others — Cicero and Burke, Tiberius in Tacitus, and Suetonius, and De Quincey, — but why enumerate? The literature of this century, to the death of Scott or Moore — so grand, rich, and passionate" —

[The succeeding sheets are missing. Some of these subjects he wrought into his lectures.]

"I have at last hit upon a plan for the thorough study of the history of the Constitution, which I hope may advance all my objects, — the thorough acquisition of the facts; the vivid reproduction of the eventful age; the rhetorical expression and exhibition of the whole. I shall compose a succession of speeches, supposed to have been made in Congress, in conventions, or in assemblies of the people, in the period of from 1783 to the adoption of the Constitution, in which shall be embodied the facts, the reasonings, and the whole scheme of opinions and of policy, of the time. I select a speaker and a subject; and I make his discussion, or the discussion of his antagonist, revive and paint the actual political day on which he speaks. My first subject is, the resolution of April 1783, — recommending to the States to vest in Congress the power of imposing certain duties for raising revenue to pay the debt of the war. To prepare for this debate I read Pitkin, Marshall, Life of Hamilton, and above all, Washington's Address to the People of 8 June 1783, and that of the Committee of Congress.

"Mr. Ellsworth or Mr. Madison or Mr. Hamilton may have introduced the measure; and a review of the past, a survey of the present, a glance toward the future would be unavoidably interwoven with the mere business-like and necessary exposition of the proposition itself."

It is evident from the above fragment, that Mr. Choate cherished the purpose of embodying his reflections on various subjects in a series of papers. To this he sometimes jocosely referred in conversation with other members of the bar. He once told Judge Warren that he was going to write a book. "Ah," said the Judge, "what is it to be?" — "Well," replied Mr. Choate, "I've got as far as the title-page and a motto." — "What are they?" — "The subject is 'The Lawyer's Vacation,' the motto — I've forgotten. But I shall show that the lawyer's vacation is the space between the question put to a witness and his answer!"

The following seems to be an essay towards a title and introduction to some such work: —

"VACATIONS:

"BY A MEMBER OF THE BAR OF MASSACHUSETTS.

"Paululum itinere decedere, non intempestivis amœnitatibus, admonemur. — PLINY.

"ADVERTISEMENT.

"The vacations of the Massachusetts, and I suppose of the general American Bar, are not certain stated, and considerable seasons in which a lawyer may turn his office-key, and ramble away, without reclamation or reproval, to lake and prairie, and 'beyond the diminished sea;' or resign himself, with an absolute abandonment of successive weeks to those thoughts and studies of an higher mood, by which soul and body might be sooner and longer rested and recreated. They are, rather, divers infinitely minute particles of time, — half-hours before breakfast, or after dinner, Saturdays at evening, intervals between the going out of one client and the coming in of another; blessed, rare, fortuitous days, when no Court sits, nor Referee, nor Master in Chancery, nor Commissioner, nor Judge at Chambers, nor Legislative Committee, these snatches and interstitial spaces, moments, literal and fleet, are our vacations.

"How difficult it is to arrest these moments, to aggregate them, to till them as it were, to make them day by day extend our knowledge, refine our tastes, accomplish our whole culture! — how much more difficult to turn them to any large account in the way of scholarship and authorship, 'sowing them,' as Jeremy Taylor has said, 'with that which shall grow up to crowns and sceptres,' — all members of the profession of the law have experienced, and all others may well understand! That they afford time enough, if wisely used, for 'the exercises and direct actions of religion,' for much domestic and social enjoyment, for many forms of tasteful amusements, for some desultory reading, and much undetected and unproductive reverie, I gratefully acknowledge. But for studies out of the law, — studies, properly so described, either recondite or elegant, and still more for the habit and the faculty of literary writing, — they are too brief and too interrupted; gifts, too often, to a spirit and a frame too much worn or depressed or occupied, to employ or appreciate them.

"It was in such moments, gathered of many years, that these papers were written. They are fruits, often, or always, 'harsh and crude,' of a lawyer's vacations. They stand in need, therefore, of every degree of indulgence; and I think I could hardly have allowed myself to produce them at all, if I had not been willing that others should know that the time which I have withheld from society, from the pursuit of wealth, from pleasure, and latterly from public affairs, has not been idle or misspent; *non otiosa vita; nec desidiosa occupatio.*"

CHAPTER VII.

1850.

Change of Partnership — Voyage to Europe — Letters to Mrs. Choate — Journal.

In 1849 Mr. Choate terminated his professional connection with B. F. Crowninshield, Esq. It had lasted for fifteen years, with a confidence so entire and unbroken, that during the whole time no formal division of the income of the office was ever made, nor had there arisen between them on this account, the slightest disagreement. He now took into partnership his son-in-law, Joseph M. Bell, Esq., and removed from Court Street to 7½ Tremont Row, a quarter then nearly unoccupied by members of the profession. Here he remained till the autumn of 1856, when he again removed to more commodious rooms in a new building in Court Street.

In the summer of 1850, he gratified a long-cherished wish by a voyage to Europe. So constant had been his occupation, so unremitting his devotion to the law, hardly allowing him a week's vacation during the year, that, at last, the strain became too great, and he felt compelled to take a longer rest than would be possible at home. He sailed in the Steamship Canada on the 29th of June, in company with his brother-in-law, Hon. Joseph Bell. They visited England, Belgium, France, a part of Germany and Switzerland, and returned home in September. Fortunately, he kept a brief journal, which, with a few letters, will indicate the objects which proved most attractive to him. He was kindly received in England by those to whom he had letters, and, during the few weeks he was in the country, saw as much as possible of English life, and of interesting places.

To Mrs. Choate.

"June 30, 1850. 12 o'clock. At Sea.

"Dear H——. We have had a very pleasant run so far, and are to reach Halifax at night, — say six to ten. I do not suppose I have been

sea-sick, but I have had that headache and sickness which usually follows a very hard trial, and have just got out of my berth, to which I had retreated ignominiously from the breakfast-table. After I get wholly over this, I hope I shall be better than ever. So far I don't regret coming, but oh take care of everything, — the house, — the books, — your own health and happiness. . . . . To tell the truth, I am scarcely able to write more, but with best, best, best love, I go again to my berth. Mr. Bell is writing at my side, and grows better every moment. This letter I shall mail at Halifax, — where I shall not land, however, as we touch in the night. God bless you all. Farewell again."

To MRS. CHOATE.

"Liverpool, 7th and 8th July, 1850.

"DEAR H—— AND DEAR CHILDREN, — We arrived here yesterday, 7th July, Sunday morning, at about eight o'clock, and I am quite comfortably set down at the Waterloo Hotel, — a stranger in a strange land. Yesterday, Sunday, after breakfasting upon honey, delicious strawberries, &c., &c., I went to church, — St. George's, — and heard the best church service music I ever heard, and then tried to rest. To-day Mr. Bell and I have been running all over Liverpool, and to-morrow we go to London. Most of the passage over I was very sick. Two days I lay still in my berth; the rest of the time I crept about, — rather low. But the whole voyage was very pleasant and very prosperous, and, I suppose, at no period dangerous. One vast and grim iceberg we saw, — larger than the whole block of buildings composing Park Street, — and I saw the spoutings of whales, but no whales themselves. The transition, yesterday, from a rocking ship and all the smells of the sea to the hotel, was sweet indeed. I don't know how I shall like England, — and how I shall stay till October. Sometimes my heart droops. But our course will be this, — to stay now a fortnight in London, then go a fortnight to the Continent, and then spend the *whole* of the rest of our time in England and Scotland. More of all this we shall learn to-morrow, or soon, at London. . . . My heart swells to think of you all, and of my dear, poor library. Take good care of that. Write everything to me. . . . My heart is at home. Miss G. got along very well, — a little pale and sad. All England is in mourning for Sir R. Peel. How awful! One of my letters was to him, whom I am never to see. I have lived so much at home, that I don't know how I shall go along — or go alone. But if we all meet again, what signifies it? Write by every boat. . . . Tell the news — the news. Remember I can give you no idea by letters of all I see, but if I come home you shall hear of 'My Lord, Sir Harry and the Captain' till you are tired. Good-by, good-by. It is near three. Mr. B. and I dine at that hour. Bless you — Bless you."

To MRS. CHOATE.

"London, Friday, July 12.

"DEAR H. AND DEAR CHILDREN, — We are in London you see, — at Fenton's Hotel, St. James's Street, and very pleasantly off for rooms

and all things. I have not yet delivered my letters, but we have been everywhere and walked so much, and seen so much, that I am to-day almost beat out. . . . Thus far I have stopped nowhere, examined nothing, seen nobody, but just wandered, wandered everywhere, — floating on a succession of memories, reveries, dreams of London. . . . I think we shall hurry to the Continent sooner than we intended, perhaps in a week. This will depend on how our London occupations hold out. I cannot particularize, but thus far, London, England, exceed in interest all I had expected. From Liverpool across, all is a garden, — green fields, woods, cottages, as in pictures, — here and there old Gothic spires, towers, and every other picturesque and foreign looking aspect. The country is a deep dark green; the buildings look as in engravings and pictures, and all things so strangely mixed of reality and imagination that I have not been able to satisfy myself whether I am asleep or awake. But London! — the very first afternoon after riding two hundred miles, we rushed into St. James's Park, — a large, beautiful opening, — saw Buckingham Palace, the Queen's city residence, — went to Westminster Abbey, whose bell was tolling for the death of the Duke of Cambridge, — went to the Thames and looked from Westminster Bridge towards St. Paul's, whose dome hung like a balloon in the sky. Next morning I rose at six, and before eight had seen Charing Cross, — the Strand, — Temple Bar, an arch across it on which traitors' heads were suspended or fixed, — Fleet Street, where Sam. Johnson used to walk and suffer, — St. Dunstan's church, of which I think we read in the Fortunes of Nigel, — and none can tell what not. Last evening I went to the opera and heard in the 'Tempest,' Sontag and Lablache, and in 'Anna Bolena,' Pasta, — the most magnificent theatre, audience, music, I ever heard or saw. Yet Sontag and Pasta, especially Pasta, *are* past their greatest reputation. . . . I am quite well. I *die*, when I think how you and the girls would enjoy all. Bless you. Good-by. R. C."

To Mrs. Choate.

"London, Friday, July 18.

"Dear H. and dear Children, — We are to start to-day for Paris and our tour of the Continent. We shall get to Paris to-morrow eve, and thence our course will be guided by circumstances. But we expect to be here again by the middle or last of August, to renew our exploration of England and Scotland. Thus far, except that I am tired to death of seeing sights and persons, and late hours, I have been very well. One day of partial sick-headache is all I have had yet. But the fatigue of a day, and of a week of mere sight-seeing is extreme, though not like that of business, — and the late hours of this city, to me, who sometimes used to lose myself as early as nine or ten, are no joke. I have not more than three times been in bed till twelve or one, and up again at seven or eight. It is now five o'clock in the morning. Expecting to come back to London so soon, I have not tried to see it all, but have found it growing daily on my hands. We attended church at the Foundling Hospital last Sunday, where some five hundred to one thousand charity children, in uniform dress, performed the responses. The organ was Handel's own,

and the sight and the music, and the march of the children to their dinner were most pleasant to see and hear. I have been as much amazed at the British Museum as at anything. It is a vast building, one part of which, divided into a great number of departments, is full of all manner of curiosities, — statuary, antiquities, specimens of natural history, everything, — and the other is the transcendent Library. This last I have spent much time in. The catalogue alone fills two hundred or three hundred volumes. The rooms are wide, high, of the size of Fanueil Hall almost, and lined with books to the ceiling. One single room is three hundred feet long, and full. The Temple is a most sweet spot too, — a sort of college, inclosing a beautiful large area or garden, which runs to, and along, the Thames, secluded and still in the heart of the greatest city of earth. There Nigel was, before returning to Alsatia.

"We dined at Mr. Lawrence's, pleasantly, and I spent a delightful evening at Mr. Bunsen's, the Prussian minister. The house belongs to his government, and is a palace; rooms large and high. It was not a large party, — chiefly for music, which was *so so*, Prussian chiefly, by ladies and gentlemen of the party. I have been at Lord Ashburton's, Lord Lonsdale's, and Mr. Macaulay's, and am to go to Lord Ashburton's in Devonshire, when we come back. The deaths of the Duke of Gloucester and Sir R. Peel, and the lateness of the season, somewhat check the course of mere society; but I have been most politely received, and more than I expected gratified by the mere *personnel* of London. Lord Ashburton's house is a palace too, full of pictures, though all in confusion on the eve of his departure for his summer seat. The country is the grand passion of such persons. Mr. Macaulay told me they would sell any house they own in town for its money value, but their *country seats* nothing could take from them. . . . I wish J. would ascertain the latest day to which my causes in the S. J. C. can be postponed, and write very particularly which must come on, and at what times, doing his best to have all go over till October, if possible.

"The confession of Professor Webster has just arrived. The cause is as well known here as there. It of course cannot save him.[1] Mr. Coolidge has helped us to a capital servant, and was most polite and kind; so are all from whom we had any right to look for anything. And yet, if I were asked if I have ever been as happy as I am every day and hour at home, at talk with you all, in my poor dear library, I could not truly say I have. But even home will be, I hope, the pleasanter for the journey.

"Good-by, all dear ones. We go to Dover to-night, starting at one. It draws near to breakfast, and I must go to packing. Bless you all. Give my love to Mrs. B. and all inquirers. R. C."

To MRS. CHOATE.

Paris, Thursday, 24th July.

"DEAR H. — I was delighted to get your letter yesterday, though struck speechless to learn at the moment of receiving it from the banker,

[1] It is understood that Mr. Choate was solicited to defend Dr. Webster, but, for reasons which he judged satisfactory, declined.

that President Taylor is dead. I hardly credit it yet, though it is as certain as it is surprising. Better for him perhaps, but *what an overthrow of others*, — the cabinet, the party, and all things.

"We got here Saturday night, and have been — I have — in a real dream ever since. Nothing yet seen is in the least degree to be compared with Paris, for every species of interest. Every spot of which you read in the history of the revolution and the times of Napoleon, over and above all that belongs to it historically, is a thousand times more beautiful and more showy than I had dreamed. I saw the Tuileries — by moonlight, Saturday evening, from the garden of the Tuileries. This garden — I should think larger — with the Champs Élysées certainly — than a dozen of our Commons — is a delightful wood, with paths, fountains, statues, busts, at every turn, — quiet, though a million of people seemed walking in it, with soldiers here and there to keep order. It stretches along from the Tuileries to a clearing called the Place de la Concorde, an open area where are fountains, and the great Egyptian obelisk. Then you reach the Champs Élysées, also wooded, not so close or quiet, — then come to the Arch of Triumph, a prodigious structure on which are inscribed the names of Napoleon's victories. . . . Notre Dame is a majestic old church, 500 or 1000 years old, as grand as Westminster Abbey — and the Madeleine a glorious new Greek Temple church. . . . We went yesterday to Versailles, the most striking spot of earth, out of Rome, — one enormous palace, full of innumerable great rooms, halls, museums, full of statues and pictures. We were in the bedroom and boudoir of Marie Antoinette, and Louis XVI., not usually opened. The most striking place I have seen, of which I never had heard, is a beautiful chapel built over the spot where Louis XVI. and Marie Antoinette were first privately buried. There they lay 21 years and then were removed to St. Denis, but then this chapel was built. It has two groups, — the king, an angel supporting him, and the queen, similarly supported, — in marble. I touched the place where they were buried. We start to-morrow for Brussels, Cologne, the Rhine and Switzerland. — Best, best love to all. R. C."

"Take care of my library, — dearer than the *Bibliothèque du Roi*, — though smaller!"

JOURNAL OF MR. CHOATE.

Saturday, 29th June, 1850.

ON BOARD THE CANADA.

"I NEVER promised myself nor any one else to attempt a diary of any part of the journey on which I have set out, still less of the first, most unpleasant, and most unvaried, part of it, — the voyage. But these hours too must be arrested and put to use. These days also are each a life. 'Let me be taught to number them then' — lest, seeking health, I find idleness, ennui, loss of interest — more than the allotted and uncontrollable influence of time, on the faculties and the curiosity.

"These affectionate aids too of my wife and daughters — pen, ink, and

beautiful paper — at once suggest and prescribe some use of them. Such a claim, now less than ever, would I disallow.

"So I will try to make the briefest record of the barren outward time, and try also to set myself to some daily task of profit. My first three days, Wednesday, Thursday, and Friday, were grasped from me by a sick-headache of the Court House, aggravated, changed, by the sickness of the sea. The first day and night and the second day till after dinner were one fearful looking-for of the inevitable consequences of my last laborious fortnight. Ship or shore, I should have had it. It came, is gone, and for the first time, to-day, I feel like myself, and to be well, I hope, for a month more.

"Meantime we have run up the New England coast, touched at Halifax, and are coming fast abreast of our last land, — Cape Race. They expect to pass it to-day at 6 P. M., and the east wind and incumbent fog announce the vicinity of the inhospitable coast and the Great Bank. I understand the passage of Cape Race is reckoned the last peril of the voyage, at this season — till we make the Irish shores. We all share the anxiety and appreciate the vigilance of the pilotage, which is on the look-out for this crisis. Under the circumstances, it infers little danger at least. Thus far, till this morning, day and night have been bright. Sun, moon, and stars have been ours, — and the wind fair and fresh. We have generally carried sail, often studding sails. The sea has been smooth too, for ocean; yet breathing ever, — life-full, playing with us, — the serene face of waves smiling on us. To-day, is some change. Wind east; — dead ahead, — a low, cold, damp fog, brooding forever and forever in these regions of the meeting of the warm and cold tides. On we go still, every sail furled close — eleven miles an hour. I remark our northing, in the diminished power of the clearest sunbeam and in the cool air, and our easting in the loss of my watch's time. The sun comes to the meridian an hour sooner than in Boston. We are taking our meridian lunch, while our dear friends hear their parlor and kitchen clocks strike eleven. For the rest, it is a vast sentient image of water all around. We have seen three or four sail daily, — parcel of the trade of England to her northern colonies; — and a mackerel fisherman or two; and with these exceptions, we are alone in the desert.

"Our ship is a man-of-war, for size, quiet, and discipline; the passengers a well-behaved general set; my accommodations excellent. *Hæc hactenus.*

"I have come away without a book but the Bible and Prayer-Book and 'Daily Food,' and I sigh for the sweet luxuries of my little library μικρόν τε φιλόν τε.

"Yet am I resolved not to waste this week '*in ineptiis*,' and I mean to know more at the end of it than I know now. I will commit one morsel in the 'Daily Food' daily, and have to-day, that of 29th June. To this, I mean to add a page at least of French, and two pages of 'Half-hours with Best Authors,' with *Collectanea, ut possim.*

"*Liverpool.* — Alas! on that very Saturday evening, my real sea-sickness set in, pursued me till Thursday, then followed languor, restlessness, and all the unprofitable and unavailing resolving of such a state of the mind left to itself on board a vessel. The result is, that the rest of my

voyage was lost, except so far as it has quite probably prepared me for better health and fresher sensations on shore.

"We passed Cape Race on Saturday evening in thick fog, and very close, nearer I suppose to a point of it, — the projecting termination of a cove, into which we ran, which we coasted, and out of which we had to steer by a total change of course, — nearer than we designed. To see it, for departure, was indispensable almost, and that done we steered assured and direct towards Cape Clear in Ireland. Then followed two or three days of fog and one or two more of a quite rough sea. But we have had no gale of wind, and on Friday night we entered the Irish Channel and ascended it till about 5 P. M., by science only, when we saw the first land since our departure one week before from the S. E. cape of Newfoundland. What we saw were islands on the coast of Wales, or Mountains of Wales, or both. We came up toward Liverpool as far as the bar would permit, last eve, anchored or waited for tide, and came to our dock at about 8 this morning.

"On Sunday afternoon, June 30th, we were called on deck to see an iceberg. It was late in the afternoon, a cold, gross fog incumbent, a dark night at hand, the steamer urging forward at the rate of twelve miles an hour. The iceberg lay slowly floating, I suppose one fourth of a mile off, getting astern, and was a grand and startling image certainly. It might be in some places fifty, in some one hundred feet from the water, and perhaps three hundred to five hundred yards long, looking like a section of a mountain-top severed horizontally, but *ice, ice*, suggesting its voyage of thousands of miles perhaps, and its growth of a thousand years, giving us to look directly on the terrible North, present to us in a form of real danger. The Captain professed no fears from such causes, and under the admirable vigilance of his command, I suppose there was not much. One day we saw porpoises, as in the Sound, and I saw twice vast sheets of water thrown up by the spouting of the whale, although himself I did not see.

Enough. The voyage is over. Brief, prosperous, yet tedious. And now I am to address myself to the business of my journey. I have come to the Waterloo House, to a delicious breakfast, including honey, strawberries — a snug, clean room and the luxuries of purification and rest. I have traversed a street or two, enough to recognize the Old World I am in. I am beginning to admit and feel the impression of England. The high latitude, deep green of tree and land, clouded sky, cool, damp air; the plain, massive, and enduring construction of fort, dock, store and houses, dark, large, brick or stone, instantaneously strike. Thus far it seems gloomy, heavy, yet rich, strong, deep, a product of ages for ages. Yet I have not looked at any individual specimen of antiquity, grandeur, power or grace. I have attended service at St. George's for want of knowing where to go. The music was admirable, forming a larger part than in the American Episcopal Service, and performed divinely. The sermon was light and the delivery cold, sing-song, on the character of David.

"And now to some plan of time and movement for England. Before breakfast I shall walk at least an hour *observantly*, and on returning jot down anything worth it. This hour is for exercise however. I mean

next to read every day a passage in the Bible, a passage in the Old and in the New Testament, beginning each, and to commit my 'Daily Food.' Then, I must carefully look at the papers, for the purpose of thoroughly mastering the actual English and European public and daily life, and this will require jotting down, the debates, the votes, chiefly. Then I must get, say half an hour a day, for Greek and Latin and elegant English. For this purpose, I must get me an Odyssey and Crusius, and a Sallust, and some single book of poems or prose, say Wordsworth. This, lest taste should sleep and die, for which no compensations shall pay!

"For all the rest, I mean to give it heartily, variously, to what travel can teach, — men — opinions — places, — with great effort to be up to my real powers of acquiring and imparting. This journey shall not leave me where it finds me. Better, stronger, knowing more. One page of some law-book daily, I shall read. That I must select to-morrow too.

"*Friday, 12th July.* — I must write less, but more regularly, or the idea of a journal must be abandoned. Tuesday I came to London, a beautiful day, through a beautiful land, leaving an image, a succession of images, ineffaceable. That which strikes most is the universal cultivation, the deep, live, fresh, green on all things, the hedge-fences, the cottages small and brick, the absence of barns, and the stacks of hay out of doors, the excellent station constructions, the gothic spires and castles here and there among trees, identifying the scene and telling something of the story. The railroad was less smooth than the Lowell, at least the car ran less smoothly. Here and there women were at work in the fields. I know not how rich was the land. I saw no, or not much, waste, and the main aspect was of a nearly universal and expensive culture.

"We passed through Tamworth, and saw at a distance a flag at half-mast from a tower. It was the day of Sir Robert Peel's funeral, of which, however, we saw nothing. Tuesday eve, Wednesday, and yesterday I rambled, and to-day have lain still. I ran this way and that, like a boy, seeking everywhere and finding everywhere, some name and place made classical by English literary or general history, and have brought off a general, vague, yet grand impression of London, with no particulars of knowledge. The parks are sweet spots, quiet and airy, but plain. Green Park, at least, was partially dotted by flocks of sheep. Buckingham Palace, name apart, does not strike much more than the Capitol or President's house. Westminster Abbey externally is sublime. The new Parliament House will be showy.

"I heard a cause partially opened to a committee of Lords; another partially argued to the jury in the Exchequer; and another partially argued to the Lord Commissioners. The A. G. [Attorney-general] Jervis, [Sir John Jervis,] and Mr. Cockburn, [Alexander E. Cockburn,] open respectively for and *versus* Pate, for striking the Queen. There was no occasion for much exertion or display, and there was nothing of either. Mr. Cockburn had the manner of Franklin Dexter before the committee. Mr. Marten seemed animated and direct in a little Exchequer jury cause. Pate would have been acquitted in Massachusetts. The English rule is, — knowledge, or want of it, that the act is wrong. The

prisoner's counsel, in my judgment, gave up his case by conceding; he feared he should fail. I thought and believed he might have saved him. The chief judge presiding, Alderson, [Sir E. H. Alderson] offended me. He is quick, asks many questions, sought unfavorable replies, repeats what he puts down as the answer, abridged and inadequate. The whole trial smacked of a judiciary, whose members, bench and bar, expect promotion from the Crown. Their doctrine of insanity is scandalous. Their treatment of medical evidence, and of the informations of that science, scandalous.

"One thing struck me. *All* seemed to admit that the prisoner was so far insane as to make whipping improper! yet that he was not so insane as not to be guilty. Suppose him tried for murder, how poor a compromise!

"The question on handwriting was 'do you *believe* it to be his?' after asking for knowledge. Opening the pleadings is useless, except to the courts, and is for the court. The counsel interrogating from a brief; leads in interrogation being very much on uncontested matter. It saves time and is not quarrelled with. The speaker is at too great a distance from the jury. Their voices are uncommonly pleasant; pronunciation odd, affected, yet impressing you as that of educated persons. Some, Mr. Humphry, Mr. Cockburn, occasionally hesitated for a word. All narrated dryly, not one has in the least impressed me by point, force, language, power; still less, eloquence or dignity. The wig is deadly. The Exchequer Jury sittings were in Guildhall as were the C. C. Pleas. Pate was tried at the Old Bailey. The rooms are small, — never all full. Mr. Byles was in one ins. cause in C. C. Pleas.

"Last eve, I heard Sontag and Lablache in La Tempeta and saw the faded Pasta. I returned late, and am sick to-day, a little. Bought Kühner's Edition of the Tusculan Questions. Mr. Bates called and made some provision for our amusement.

"I read Bible, Prayer-Book, a page of Bishop Andrews's Prayers, a half-dozen lines of Virgil and Homer, and a page of Williams's Law of Real Property."

THE CONTINENT.

"*July* 19, *Friday.* — Left London for Folkstone, whence across to Boulogne — a cloudy day terminating in copious rain — through which the deep green of English landscape looked gloomy and uniform. At Folkstone which is a few miles S. W. of Dover, just built up to be a terminus point of transit of railroad and steamboat line to France found our — for the present — last English hotel, clean bedrooms, abundance of water, and all other appointments, and all well administered and soundly exacting.

"*Saturday.* — We passed in the steamboat to Boulogne, breakfasted at B. and came to Paris, arriving at six. The passage across the Channel was on a foggy, rainy morning, showing that renowned water drearily and indistinctly, and a little darkening our first experience of France. Numerous vessels, from small fishermen of both coasts to large merchant ships, were in view however, and I recalled with Mr. Prescott the occa-

sions when Roman, Saxon, Danish and Dutch keels had ploughed it, the old intercourse of France and Scotland, the voyage of Mary, the descents of the Henrys and Edwards, and the cruise of so many great fleets, in so many and such various fortunes of England and France. Mr. P. told me of Lockhart who interested him deeply, thinks freely, despises the Bishops, utters brilliant sarcasms, lives retired, sad, and independent. Deaths of the loved, the bad character of a living child, with other unexplained causes, are supposed to cause it. He saw at L's. the MSS. of Rob Roy, the first hundred pages covered with second thoughts — then all working itself consummate by the first effort. He related sarcasms of Rogers, sneers at the Bishop of Oxford, Wilberforce; — the incredible touching and altering, by which the historic sheet of Macaulay at *last* is brought to its perfection; — the great narrowness of all male and female Church adherents, — the mendacious reputation of Lord ——, telling an audience at Harrow, his father and grandfather were educated there, every man, woman, and child knowing better. By the time we were ready to leave Boulogne the sun came out, and our ride to Paris was lighted by a sweet, glowing summer's day. I must say I was delighted with the country. Part of our way was quite on the sea-shore, as far as Abbeville, thence more inland, and the last three to five hours lay through whole prairies of fields ripe with wheat. Till now I had no conception of the wheat culture of France, nor of the affluent and happy aspect with which the wheat harvest, when nodding, yellow, over level plains, up the sides and to the tops of hills, through patches of trees, five miles to six or seven in extent on each side, for a distance of fifty miles, robes a country. Why, France, if all like this, could feed Europe. A few vineyards were interspersed here and there; chateaux in the distance and the towers of cathedrals, with men and women at *work* in the fields, completed the scene. Ah, how absurd, yet common, to think of Paris only as France, and the Deputies only as Paris. How English media refract and tinge. The cars were the best I ever saw, and the whole railroad administration, rapid and in all things excellent. I am come to Hotel Canterbury. Of Paris from the station I avoided seeing much, but could not wholly lose the narrow street and vast height of houses and want of wealth in shop-windows. After dinner, at nine in the evening, by moonlight, I first saw Paris. I walked down through the Place Vendome, looked on the column cast of cannon, towering gloomy, grim, storied, surmounted by Napoleon, recognized even so, and in three minutes stood in the Gardens, before the structure of the Tuileries. This scene, this moment, are ineffaceable forever! Some soldiers in uniform, with muskets bayonetted, marched to and fro near the entrance. Hundreds, thousands — men, women, and children — were walking in the Garden, in paths beneath a wood, extending, so far as I could see, without limit; lights twinkled in it here and there; vases, statues, reposed all around; fountains were playing, and before me stretched the vast front of the Tuileries, the tricolor hanging motionless on its dome, the moonlight sleeping peacefully and sweetly on the scene of so much glory, so much agony — a historic interest so transcendent. I did not go to the Seine, nor seek for definite ideas of locality, or extent; but gave myself to a dream of France, 'land of glory and love.' Far, far to the west, I remarked an avenue

extending indefinitely, — along whose sides, at what seemed an immense distance, twinkled parallel lines of lights. I did not then know that it ran to the Place de la Concorde — the Obelisk — and thence on, on, becoming the Avenue of the Champs Élysées — and so to the Arch at last. That I learned the next morning.

"22*d*. — It is now Monday morning. I have not been out to-day yet. But yesterday I saw and entered Notre Dame and the Madeleine — glorious specimens of diverse styles — pure Gothic and Greek. Notre Dame impresses as a mere structure, as much as Westminster Abbey. It is cruciform. At the west end rise two vast towers, lofty, and elaborately finished — telling of a thousand years. Between these you enter and are in the nave. Thence you may wander through ranges of pillars from which the pure Gothic arch is springing, mark along the sides the numerous chapels in recesses, observe the two vast circular windows of the transept, and look up to the ceiling rising as a firmament above you. No statues or tablets of the dead are here. Pictures of sacred subjects on the walls, worshippers here and there, the appointments of the Papal service, — the grand, unshared, unmodified character of a mere cathedral is on it all. The Madeleine is a beautiful Greek temple, showy and noble. The Boulevards terminate there — thence running I know not how far — a vast, broad street with thousands of both sexes walking, sitting outside of cafés, drinking coffee, wine, &c., the whole lined by miles of shops, cafés, and other places of public resort — glittering and full.

"*Monday, 22d July.* — This morning I am to begin a more detailed observation of Paris."

"*Basle, 2d August, Friday.* — A day of rain and a headache compel or excuse my lying by till to-morrow, and so I avail myself of an undesired and unexpected opportunity to recall some of the sights that have been crowded into the last fortnight. Left Paris Friday eve, July 26, for Brussels, to which point we came to breakfast — visited Waterloo, and next morning started for Cologne where we arrived at sunset. On Monday went to Bonn and passed the afternoon and night, — making, however, an excursion to the top of Drachenfels. Thus far our journey was by rail. The next morning we embarked on the Rhine in the steamer Schiller, and ascended to Wiesbaden, arriving, by aid of a quarter or half an hour in an omnibus, at nine o'clock. On Wednesday we came by rail to Kehl opposite and four miles from Strasburg, glancing at Frankfurt, and spending three hours at Heidelberg. Yesterday we crossed to Strasburg, — visited the Cathedral, and came by rail to Basle in season for dinner at the *table d'hote*. And now what from all this? I shall remember with constant interest Paris, and shall extend my acquaintance with the language, literature, and history of the strange and beautiful France. Besides what I have already recorded, I attended a sitting of the Chamber of Deputies — an assembly of good-looking men — not just then doing anything of interest — most interesting however as the government, and the exponent and multifarious representation of the political and social opinions and active organ of a

great nation. M. Berryer I saw, and Eugene Sue and M. Molé. M. Guizot I saw afterwards in the steamer Schiller, going up from Bonn. He left the boat at Coblentz. Two or three deputies spoke to a most freezing inattention. They 'got the floor' in their seats, then went to the tribune, laid their MSS. at their side — and went to it as we lecture at lyceums. Great animation — much gesture — a constant rising inflection at the end of periods before the final close of the sentence — an occasional look at the MSS. and pull at the tumbler of water — some pausings at the noise of inattention — this is all I could appreciate. The courts of law pleased me too. The judges in cloaks or robes of black, with capes, — quiet, thoughtful, and dignified; the advocate in a cloak and bare-headed, debating with animation, and no want of dignity — the dress and manners far better than the English bar. The silk gown or cloak is graceful and fit, and might well have been, (it is too late now,) among the costumes of our bar.

"This was all I saw of the mind of France in political or executive action. The impression I brought from them was of great respect. In this I can say nothing of the *opinions*, or *wisdom* of anybody. The chamber seemed full of energy, quickness, spirit, capacity. The courts grave, dignified, among forms, and in halls, of age, solemnity, and impressiveness. Great French names of jurisprudence came to my memory, and I learned to feel new regard for my own profession.

"The rest of my time I gave to the storied spectacles of Paris. The Louvre, a part of which was closed for repairs, leaving enough to amaze one, — such a wilderness of form, color, posture, roof, walls, pedestals, alive with old and modern art; Versailles, holding within it the history of the nation of France, tracing in picture and statue its eras, showing forth its glory, breathing and generating an intense nationality, with here and there a small room, a boudoir of Marie Antoinette, or a confessional of Louis Sixteenth, touching a softer and sadder emotion; St. Cloud, of which I saw only the delightful exterior, imperial, grand; the street to Versailles through the Bois de Boulogne; the little chapel over the first burial-place of Louis Sixteenth and Marie Antoinette, full of deepest and saddest interest; the Luxemburg, its deserted chamber of the Senate of Napoleon and the Peers of the Restoration and Louis Philippe's dynasty, and its glorious gallery of pictures; the Royal Library in which I was disappointed after the British Museum, but where are some old curiosities and a capital statue of Voltaire; — these are of my banquet of three days. I went through the Garden of Plants too, which we should imitate and beat at Washington; the Place de Grêve, the site of that guillotine; the Hotel des Invalides; the Pantheon, disagreeable as a monument to the dead; Père-la-Chaise, which exceeded my expectations, and shows France affectionate and grateful and thoughtful to the loved and lost; Place Bastille, sacred by its column to the Revolution of 1830, — with interest, and sufficiently.

"The cafés and café dinners are a strict Parisian fact and spectacle — cooking, service, and appointments, artistical as a theatre. A dinner at the 'Trois Freres' is to be remembered. And so adieu to France. We entered on that famous soil again at Strasburg to find 'Liberté, Egalité, Fraternité,' graven on every national front, and to mark the quickness,

courtesy, and skill with which all things are done. I made the acquaintance of but one inhabitant of Paris out of the hotel, M. Bossange, the bookseller in the Quai Voltaire, polite, kind, and honest, of whom I ordered some books.

"I have seen Paris with any feeling but that of disappointment. I feel no other at least, than that which always attends the substitution of the actual spectacle for the imaginary one which rises on the mind of every reader of an event or description, and which, by a thousand repetitions, becomes the only spectacle which can fill his mind full. I have lost the Tuileries, and Boulevards, and Champs Élysées, and Seine, and Versailles, and St. Cloud, of many years of reading and reverie, — a picture incomplete in details, inaccurate in all things, yet splendid and adequate in the eye of imagination, — and have gained a reality of ground and architecture, accurate, detailed, splendid, impressive — and I sigh!

"One word is enough for Belgium. Everywhere and instantly you are struck with the vast level yet varied garden of agriculture, through which you ride. Every inch at first seems tilled. Wheat, rye, flax, everywhere — a wilderness, a prairie, a flood of cultivation. You see, as in France and Germany, few people in the fields, few cottages. It seems to be tilled by night by unseen hands. I gave no time to Brussels, which every guide-book describes, but rode to Waterloo and studied that locality, — a sweet, undulating, vast wheat-field, a spot memorable and awful above all I shall see or have seen. I have now an indelible image, by the aids of which I can read anew the story of that day — the *last* of the battles! I retain 1st the *short line* along which the two armies were ranged, say a mile or a mile and a half from wing to wing; 2d, the narrow space of valley between the two lines, the artillery of either posted over against that of the other a quarter or a third of a mile apart; 3d, the inconsiderable, easy ascent from the valley, up to the British ridge; 4th, the sufficiency of the ridge to shelter from the French artillery; 5th, the precise position and aspect of the shattered, pierced, and singed Hougoumont guarded from artillery by its wood — guarded in its interior citadel by a brilliant and transcendent courage; 6th, La Haye Sainte, taken, retaken, held, on right of centre, from which nothing was reaped; 7th, the place of the terrific attack in which Pictou fell, and the place of the later, final attack, now obliterated by the mound. The plan, series — attacks on Hougoumont and La Haye Sainte — cannonade to prepare — charges of cavalry met by squares, *charges of infantry met by anything.* The following years undoubtedly yielded richer crops of wheat than before. In some places of burial, by decay, large depressions of earth disclosed themselves.

"I am glad I did not see enough of Liege to correct Quentin Durward, and I was glad to leave Brussels and to come upon Rhenish Prussia, and into the valley of the Rhine, all at once. Everywhere from Brussels to Cologne, on all practicable spots, wheat, wheat, and rye, ripe for the sickle, everywhere the same universal culture, here and there a castle or chateau, or harnessed dog, or unintelligible conversation, reminded me where we were.

"I could have wished to stay a little at Aix-la-Chapelle, historically and actually striking; but on we were whirled; the valley of the Rhine

opened, a vast plain with no river yet in sight, groaning under its wheat spread on all sides, and just before coming to the great old gates of Cologne, the river, rapid, majestic, flashed to sight. In half an hour I was in my room at the hotel, and looked down on the river flowing at my very feet within fifty yards of the house, broad and free, under his bridge of boats.

"From that moment to this my journey has been a vision of the Rhine. I have gained new images and knowledge, new materials of memory and thought. The width, rapidity, volume, tone of the river, exceed all my expectations. But the aspects of its shores from Bonn to Coblentz, and its whole valley again from Wiesbaden to Strasburg! — the scenery so diverse; plain, hill, crag, mountain, vale; the fields and patches of culture, mainly of vine, but of wheat, too, and apple, and all things, which spread and brighten to the very tops of mountains; the castellated ruins, — never wholly out of view; — these will abide forever. The mere scenery is nowhere, except at two points, perhaps, — Coblentz and Heidelberg, — superior to the North River. But the character of the agriculture, the vine as well as wheat, its spread over every inch of practicable earth, carried as by a nature to the minutest and remotest vein of yielding earth; the history of the river, — the most eastern frontier of imperial Rome, — her encampments here and there, discernible still in the names of towns, and in innumerable works of military or fine art, — the scene of so many more recent strifes and glories; the ruins resting so grandly on so many summits, — the record, every one of them, of a thousand years, — all together give it a higher and different interest. I visited the library at Bonn, — a university to which Niebuhr and Schlegel would give fame, — of 130,000 to 180,000 volumes; the tops of Drachenfels, reminding one of the view from Holyoke over Northampton, but pervaded by this high and specific and strange historical interest; the Castle of Heidelberg, restoring you, grimly, grandly, the old feudal time, and opening from its mouldering turrets a sweet and vast view of the Necker and the valley of the Necker and the Rhine; and the Cathedral of Strasburg, where mass was performing and a glorious organ was filling that unbounded interior with the grandest and the sweetest of music, through whose pauses you heard the muttered voice of the priest, and the chanting of a choir wholly out of sight. Byron does not overstate the impression of the Rhine, nor the regrets of parting from it, nor the keen sense of how much loved and absent ones, if here, would heighten all its attractions. The points of particular interest are the Drachenfels, Coblentz, with Ehrenbreitstein, Heidelberg, the cathedral at Strasburg; but the general impression made by the whole Rhine is one of a unity, identity, entirety, and depth, never to be equalled, never to be resembled. Old Rome predominated in the vision, next the Middle Age, Church and Barons, then the age of Louis XIV., then the form of Napoleon, and the passage of the armies of modern war. The Rhine would form a grand subject of a lecture. Compare with no river. Its civilization to that of the Nile is recent and grand, — hence no river may rival.

"Our steamer was Schiller. I saw another named Goethe. I had forgotten the most glorious cathedral of Cologne, and a beautiful picture of Jews weeping at Babylon in the Museum. The choir of the cathedral is

indeed a "vision"; a single harmony of the boys chanting in the Strasbourg affected me more than all else!

"Dogs draw little carts in Belgium. Cows are yoked and draw burthens in Prussia, Baden, Nassau. Women labor in all the fields. Vines are led over the cottages, and flowers planted almost up to the rail of the car.

"Here at Basle our hotel stands on the side of the Rhine just as at Cologne, but here the river rushes rapid and sounding, and, till fretted and swelled by this rain, its color was a clear green. All things show we are going toward his sources, or to his cradle of mountains, and tomorrow we approach the Alps. The river passes out of view, and the mountain begins to claim its own worship. From my window I see the flag of the U. S. hung from the window of the Consulate, in *mourning*.[1] I have visited the cathedral, turned, without violence or inconoclasm, into a Protestant church, holding the grave of Erasmus.

"Political life forever is ended. Henceforth the law and literature are all. I *know* it must be so, and I yield and I approve. Some memorial I would leave yet, rescued from the grave of a mere professional man, some wise or beautiful or interesting page, — something of utility to America, which I love more every pulse that beats.

"The higher charm of Europe is attributable only to her bearing on her bosom here and there some memorials of a civilization about seven or eight hundred years old. Of any visible traces of anything earlier there is nothing. All earlier is of the ancient life, — is in books, — and may be appropriated by us, as well as by her — under God — and by proper helps. The gathering of that eight hundred years, however, collected and held here, — libraries, art, famous places, educational spectacles of architecture, picture, statue, gardening, fountains, — are rich, rich, and some of them we can never have nor use.

"On how many European minds in a generation is felt, educationally, the influence of that large body of spectacle, specifically European, and which can never be transferred? Recollect, first, that all her books we can have among us permanently. All her history we can read and know, therefore, and all things printed. What remains? What that can never be transferred? Picture, statue, building, grounds; beyond and above, *a spirit of the place;* whatsoever and all which come from living in and visiting memorable places. How many in Europe are influenced, and how, by this last? The recorded history affects us as it does them. In which hemisphere would an imaginative and speculative mind most enjoy itself? In America, land of hope, liberty, — Utopia sobered, realized, to be fitted according to an idea, with occasional visits to this picture gallery and museum, occasional studies here of the objects we can't have; or here, under an inflexible realization, inequalities of condition, rank, force, property, *tribute* to the Past, — the Past!!!

"Looking to classes: 1st. The *vast mass* is happier and *better in America*, is worth more, rises higher, is freer; its standard of culture and life higher. 2. Property holders are as scarce. 3. The class of wealth, taste, social refinement, and genius, — how with them?

[1] General Taylor died July 9, 1850.

"Mem. The enjoyment of an American of refined tastes and a spirit of love of man is as high as that of a European of the same class. He has all but what visits will give him, and he has what no visits can give the other.

"What one human being, not of a privileged class, is better off in Europe than he would be in America? Possibly a mere scholar, or student of art, seeking learning or taste, for itself, to accomplish himself. But the question is, if in any case, high and low, the same rate of mind, and the same kind of mind, may not be as happy in America as in Europe. It must modify its aims and sources somewhat, live out of itself, seek to do good, educate others. It may acquire less, teach more; suck into its veins less nutriment, less essence, less perception of beauty, less relish of it, (this I doubt,) but diffuse it more.

"What is it worth to live among all that I have seen? I think access to the books and works of art is all. There is no natural beauty thus far beyond ours — and a storied country, storied of battles and blood — is that an *educational influence*?

"*Monday, Aug.* 5. — Lucerne. This is then Switzerland. It is a sweet, burning midsummer's morning at Lucerne. Under one of my windows is a little garden in which I see currants, cabbages, pear-trees, vines healthfully growing. Before me from the other, I see the lake of Lucerne — beyond it in farthest east I see the snowy peaks of Alps — I count some dozen distinct summits on which the snow is lying composing a range of many miles. On my extreme right ascends Mt. Pilate — splintered bare granite, and on the other Righi, high and bold yet wooded nearly to the top. It is a scene of great beauty and interest where all 'save the heart of man' may seem divine. We left Basle at nine on Saturday morning and got to Zurich that evening at six. This ride opened no remarkable beauty or grandeur, yet possessed great interest. It was performed in a Diligence — the old Continental stage-coach. And the impression made through the whole day or until we approached Zurich, was exactly that of a ride in the coach from Hanover to the White Hills. I ascribe this to the obvious circumstances that we were already far above the sea, were ascending along the bank of a river, the Rhine, and then a branch which met us rushing full and fast from its mountain sources — that we were approaching the base of mountains of the first class in a high northern latitude. The agricultural productions (except the exotic vine) the grass, weeds moderate; wheat — clover — white weed — the construction of the valley — the occasional bends and intervales — all seemed of that New England. There was less beauty than at Newbury and Bath, and I think not a richer soil, — certainly a poorer people. They assiduously accumulate manure, and women of all ages were reaping in the fields.

"Zurich is beautiful. The lake extends beautifully to the south before it. Pleasant gardens and orchards and heights lie down to it and adjoining it. And here first we saw the Alps — a vast chain. The Glaciers ranging from east to west closing the view to the south — their peaks covered with snow lay along as battlements unsupported beneath of a city of the sky out of sight. I went to the library and asked for *Orelli*. He died some months since. Most of his library was

shown me standing by itself in the public collection — and the few I could stay to look at were excellent and recent editions of Greek and Latin classics. I obtained of his widow three printed thin quartos belonging to him — about the size of a commencement thesis — in Latin.

"All things in Zurich announce Protestantism — activity of mind. The University — the books — the learned men — the new buildings — the prosperity.

"I shall never forget the sweet sensations with which I rode the first five or ten miles from Zurich yesterday. It was Sunday. The bells of Zurich were ringing, — including that honored by the preaching of Zwingle, — and men, women, and children were dressed, and with books were going to meeting. Our way lay for some time along the shores of the lake, through gardens, orchards, and fields to the water's edge; many of them of the highest beauty. Then it left the lake to ascend the Albis. This is an excellent road, but to overcome the mountain its course is zigzag and is practicable only for a walk of the horses. I got out and ascended on foot, crossing from one terrace of road to another by paths through pleasant woods. As I ascended, the whole valley of Zurich — the city — the lake in its whole length — the amphitheatre of country enclosing it — the glorious Alps, and at last Righi and Pilate standing like the speaker's place in a Lyceum with an audience of mountains vastly higher — rising into the peculiar pinnacle of the Alps covered with snow, ascending before them — successively evolved itself. I saw over half of Switzerland. Spread on it all was the sweet, not oppressive, unclouded summer's sunlight. A pure clear air enfolded it — the Sunday of the pastoral, sheltered and happy world. In some such scenes the foundations of the Puritan mind and polity were laid, — scenes, beautiful by the side of Tempe and Arcady — fit as they to nurse and shelter all the kinds of liberty.

"We descended to Zug and its lake, and then coasted it to Lucerne. Last evening we visited the emblematical lion and sailed on the lake. To-day I go to the chapel of Tell. The first view of the peculiar sharp points of Alps was just from the very top of Albis on the southwest brow. There rose Righi and Pilate, and east — apart and above — a sort of range or city of the tents of an encampment in the sky. They rested on nothing and seemed architecture of heaven — pavilions — the tents of a cavalcade travelling above the earth.

"*Berne, Wednesday 7th.* — We left Lucerne at seven in our own hired voiture, and with one change of horses treating ourselves to two long pauses, arrived here at eight o'clock — the last two hours through a thunder shower. The way gave me much of the common and average life of Switzerland, lying through two of its great Cantons. What I saw of Lucerne disappointed me. The soil I should think cold and ungrateful and the mind of the laborer not open. Crucifixes everywhere, and all over everything — weeds in corn and grass. Once in Berne all changes. Man does his duty. Excellent stone bridges; good fences; fewer weeds; more wheat and grass; more look of labor; better building; better, newer, larger houses and barns; no crucifixes; express the change. Throughout I find a smallish, homely race, and pursue the dream of Swiss life in vain. Yet in these valleys, on the sides of these

hills, in these farm houses scattered far and near, though all is cut off from the great arterial and venous system of the world of trade and influence — though the great pulse of business and politics beats not — though life might seem to stagnate — is happiness, and goodness too. Sometimes a high Swiss mind emerges, and speaking a foreign or dead tongue, — or migrating, asserts itself. Berne is full of liveliness and recency as well as eld. I have run over it before breakfast and shall again before we go.

"I saw at Berne the place of the State bears, and two of the pensioners — the high terraced ground of view — the residence of the patricians — and the Cathedral, containing among other things, tablets to the memory of those who fell in 1798, enumerating them, — and the painted windows of Protestant satire. Our journey to Vevay had little interest, a grim horizon of cloud and a constant fall of rain wholly obscured the Alps. Fryeburg is striking — its suspended bridge sublime — and it holds one of the best organs of the world. We arrived here [Vevay] at ten and I have this morning looked out on the whole beauty of this part of the lake — from Hauteville and from a point on the shore above it and towards the direction of Chillon, — and admitted its supreme interest, and its various physical and associated beauty. The day is clear and warm and still. The slightest breeze stirs the surface of the lake, light clouds curl half way up the steep shores — float — vanish — and are succeeded by others — a summer's sun bathes a long shore and inland rising from the shore, clad thick with vines; — yonder, looking to the southeast upon the water — in that valley — sheltered by the mountain — nestling among those trees — embraced and held still in the arms of universal love is Clarens — fit, unpolluted asylum of love and philosophy; before it, on its left, is the castle of Chillon; more directly before it the mouth of the Rhone, here resting a space in his long flight from his glacier-source; far off west stretched the Lake of Geneva at peace — here and there a white sail — the home — the worship — the inspiration of Rousseau and De Staël — the shelter of liberty — the cradle of free thinking — the scene in which the character and fortunes of Puritanism were shaped and made possible — the *true* birthplace of the civil and religious order of the northern New World.

"*Geneva, 9th Aug. Friday.* — The lake was smooth and bright, and our voyage of five hours pleasant and prosperous; and we had the extraordinary fortune to witness what we are assured was the best sunset on Mont Blanc for years. Long after the sun had sunk below our earth, the whole range of the mountain was in a blaze with the descending glory. At first it was a mere reflection, from a long and high surface, of the sun's rays. Gradually this passed into a golden and rosy hue, then all darkened except the supreme summit itself, from which the gold-light flashed, beamed, some time longer; one bright turret of the building not made with hands, kindled from within, self-poised, or held by an unseen hand. Under our feet ran the Rhone, leaping, joyful, full, blue, to his bed in the Mediterranean. Before us is the city of thought, liberty, power, influence, the beautiful and famous Geneva. More than all in interest was the house of the father of Madame de Staël, and the home of the studies of Gibbon.

"*Paris, Aug.* 18. — I went on Saturday, Aug. 10, to the nearer contemplation of Mont Blanc, at Chamouny. Most of that journey lies through Savoy, of the kingdom of Sardinia, even as far as St. Martin, and beyond somewhat, a well-constructed royal road. Within the first third I should think of the day's ride out from Geneva, and long before Mont Blanc again reveals himself, (for you lose sight of him wholly in a mile or two out of the city,) you enter a country of much such scenery as the Notch of the White Mountains. An excellent road ascends by the side of the Arve, itself a mad, eager stream, leaping from the *mer de glace*, and running headlong, of the color of milk mixed with clay, to the Rhone, below Geneva, on each side of which rise one after another, a succession of vast heights, some a half-mile to a mile above you, all steep, more than even perpendicular, and even hanging over you, as projecting beyond their base. These are so near, and your view so unobstructed, and they are all of a height so comprehensible and appreciable, so to speak, so little is lost by an unavailing elevation, that they make more impression than a mountain five times as high. It is exactly as in the Notch, where the grandeur instead of being enthroned remote, dim, and resting in measurement, and demanding comparisons and thoughts, is near, palpable, and exacting. Down many of these streamed rivulets of water, silver threads of hundreds, perhaps of thousands, of feet long from source to base of cliff; often totally floating off from the side of the hill and the bed in which they had begun to run in a mere mist which fell like rain, and farther down, and to the right or left of the original flow, were condensed again into mere streams. These have no character of waterfall as you ride along, but discharge a great deal of water in a very picturesque, holiday, and wanton fashion. This kind of scenery grows bolder and wilder, and at last and suddenly at St. Martin we saw again, above it, and beyond it all, the range of Mont Blanc, covered with snow, and at first its summit covered too with clouds. Thenceforth this was ever in view, and some hours before sunset the clouds lifted themselves and vanished, and we looked till all was dark upon the unveiled summit itself. Again we had a beautiful evening sky; again, but this time directly at the foot of the mountain we stood, and watched the surviving, diminishing glory, and just as that faded from the loftiest peak, and it was night, I turned and saw the new moon opposite, within an hour of setting in the west. From all this glory, and at this elevation, my heart turned homeward, and I only wished that since dear friends could not share this here, I could be by their side, and Mont Blanc a morning's imagination only.

"My health hindered all ascensions. I lay in bed on Sunday, reading a little, dreaming more, walked to the side of one glacier, and on Monday returned to Geneva to recruit. After a day of nursing, we on Wednesday, 14th August, started for Paris, and arrived last evening. Our first three days was by post-horses and a hired carriage, and brought us to Tonnerre. The first day ended at Champagnole, and was a day of ascending and descending Jura. We passed through Coppet however, and I had the high delight of visiting the chateau and the grounds which were the home of Madame de Staël, and of looking, from a distance still, on the tomb where she is buried. The chateau could not be entered, but it is large, looks well, and beholds the lake directly before it, spread deli-

ciously to the right and left. I walked up and down the grounds, and over a path where she habitually walked and wrote, and thought and burned with the love of fame, and France, — and plucked a leaf. She helped to shape my mind, and to store and charm it. My love for her began in college, growing as I come nearer to the hour when such tongues must cease, and such knowledge vanish away. Almost in sight was Lausanne. Jura is climbed by a noble road which, if possible, grows better all the way to Tonnerre. Both sides seem cold, and wooded, not grateful to the husbandman, and upon the whole, the country till we left the Jura at Poligny was not interesting. A French fortification is building on the line, — beggary ceased instantly, — some saw-mills to manufacture timber, — and for the rest it is a moderately good farming country.

"At Poligny a new image! The vast plain of Franche-Comté, and then of Burgundy opened before us, and for near two whole days, and a hundred miles, we rode through vast fields of excellent Indian corn, and then through the great grape region, all productive of famous wine; some rare and privileged spots, the *cote du vin*, productive of the most renowned wine in the world. Generally the eye turned every way on a plain. On this rose some undulations, and these grew more and more numerous as we approached the hither limit of Burgundy. And this plain, thus undulating, sometimes rising to hills, was covered all over with the two, not kindred, yet not dissimilar, and both rich, harvests of maize and vine. Peace, quiet labor, good husbandry, and an ample return, a peasantry of good looking men and women, and well-clad children, large houses, whereof barn is part, the name and history of Burgundy, all together left an image sweet, peculiar, memorable.

"Quentin Durward, Louis XI., Philip de Comines, Charles the Bold, the whole Ducal life, the whole vast struggle of centralization, seem henceforth to have a clearer significance, and a more real inherence in locality. Dijon is full of the Ducal name and being. At Montbard, my dining-room window looked on the solitary tower-study of Buffon, a sight of deep and sad interest. At Tonnerre we took the rail, and soon the valley of the Saone and Rhone, the slope to the Mediterranean was left behind, and we came upon the tributaries of the Seine, the waters of the Cote d'Or, and of the English Channel. Two hours we gave to Fontainbleau. With a different, and in some respects, less interest than Versailles, it has a charm of its own. There is the private life of French kings. St. Louis, Louis XIII., Francis I., Henry IV., Louis XV., Napoleon, — are there *en famille*, the home of kings. The spot of the 'Adieux at Fontainebleau,' near the foot of the staircase in the court, the table of the signing of the abdication; his throne, his bedroom, the dining-hall, the chapel of the two marriages, (of Louis XV., and of the late Duke of Orleans, whose tomb I have just visited,) the glorious Gobelins, old and new, the hall of Henry and Diana (of Poictiers,) and of Francis, the gardens behind, the striking of the clock, — all are worth a sight, a hearing, a memory, a sigh.

"This approach to Paris is beautiful. The valley of the Seine, stretching as far as the sight, the vine everywhere, yet flocks of sheep, rye-fields, forest of royal chase interspersed and contrasted, and at last the dome

of the Invalides, and the solemn towers of Notre Dame, — these are its general spectacle and its particular images some of them.

"To-day I have attended vespers at St. Denis, and have visited the tomb of the Duke of Orleans. They showed us the restored series of the French royal dead, and gave us the loud and low of the grandest organ; and then I saw at the chapel, which is the tomb of the Duke, such a mingling of sharp grief; parents and brothers in agony for the first-born, and the dearly loved; the son, brother and heir-apparent, with crushed hopes; perishing dynasties; as few other spots of earth may show. If Thiers and Guizot were there, their thoughts might wander from the immediate misery to the possible results; they might reflect that not only the immediate heir, but the only loved of France of that line was dying. The organ was played just enough to show what oceans and firmaments full of harmony are there accumulated. Some drops, some rivulets, some grandest peals we heard, identifying it, and creating longings for more. The first time I have seen a Louis XI. was in that royal cemetery. He wears a little, low hat, over a face of sinister sagacity.

"*Cambridge, 1st Sept.* — Since I came to Dover, (Aug.) my whole time has passed like a sweet yet exhausting dream. England never looked to any eye, not filial, so sweet as I found it from Dover to London. It was the harvest home of Kent; and the whole way was through one great field — through a thousand rather — some nodding yellow and white, waiting the sickle; some covered with the fallen and partially gathered grain; some showing a stubble — extensive — the numerous and large stacks shaped and clustered as houses in villages, embodying the yield; some green with hops, grass, turnips; everywhere glorious groves of great trees; everywhere trees standing large, hale, independent, — one vast, various, yet monotonous image of the useful, plain, rich, and scientific agriculture of England. Came to London. I saw the interior of St. Paul's, the parks; heard in some fashionable ladies' society a story or two of Brougham; heard Grisi and Mario in three operas, — Norma; another by Donizetti, comic, but a reckless squandering of delicious music on a story of a lover seeking a potion to make him loved; and finally Don Giovanni; the trio, and the solo of Mario, by far the best music I ever heard in that kind. Mario is handsome — voluptuously; his voice flexible, firm, rich as a clarionet.

"But from London what have I not seen! Twickenham; Pope's Grotto — the views through it — Richmond Hill, and its wealth of beautiful aspects; Hampton Court, so glorious in its exterior of trees, grounds, avenue, park — so disappointing within, yet leaving an impression of William III.; Kensington, known to the world as a great, useful, botanic garden; Gray's home and poetical nourishments — the church-yard, ivy tower — mouldering heaps — yew-tree, his own monument, his view of Eton — the ride to and fro — the most intensely *rural* England; Eton itself — the palace and the matchless prospect from the keep; Windsor forest. Old Windsor — the valley of the Thames, and all the scenes which the Augustan poetry of England loved, by which it was fed and stimulated, on which a greater than that school loved to look, and has done something to endear and to immortalize.

"When this was done, there was left to see the University — physical and mental architecture of England. I am glad I went first to Oxford. I am doubly and forever grateful and glad, that the last great impression I shall take and hold of England is to be that conveyed by the University of Cambridge. This day, Sunday, I have passed here at Cambridge, with perhaps as keen and as various a pleasure as I ever felt, — except at home, or in a book. But I begin with Oxford. The country on the way disappointed me in the first place. The whole city and the Colleges did so, even more cruelly, in the next place. Something I ascribe to the day, — dark and cold, — but not much. The Isis does nothing for Oxford, that I could see, though some of the college walks are on its meadows. The exterior of the Colleges, so far as I saw, was not old only — that was well — but all old, only old, grim, and with a worn and neglected look, as if the theory were to keep forever before the eye the old, old time and art and product, unwarmed, unacidulated, unenlivened by the circulation of a drop of later life. I visited, however, the dining hall of Christ's Church, and its chapel and library, with interest, yet oppressed at every step with — I know not what — of the retrograding or stationary and narrow and ungenial in opinion, in policy, in all things. The Bodleian, impressed by its real wealth and spaciousness. Altogether it seemed a place for rest, for inertness, for monastic seclusion, for a dream, and a sigh after the irrevocable past.

"This day at Cambridge has been such a contrast that I distrust myself. The country from London, in spite of heavy cloud and chill, was beautiful, — an undulating and apparently rich surface, strongly suggestive of the best of Essex and Middlesex. The impression made by the University portion of Cambridge I can scarcely analyze. The architecture is striking. The old is kept in repair; the new harmonizes, and is intrinsically beautiful, so that here seems a reconciliation of past, present, and of the promise of the future. Conservation and progress — the old, beautified, affectionately and gracefully linked to the present, — an old field of new corn — the new recalling the old, filial, reverential, yet looking forward — running, running, a race of hope. The new part of St. John is beautiful; all of King's is striking, too. I attended the cathedral service in King's Chapel, as striking as St. George's in London, and then for a few minutes went to the University Chapel, and again to All Saints' to see the tablet and statue of Kirk White. The courts, buildings, and grounds of Trinity are beautiful and impressive; and in my life I have never been filled by a succession of sweeter, more pathetic, more thrilling sensations than in looking from the window of Newton's room, walking in his walks, recalling the series of precedent, contemporaneous, and subsequent companionship of great names whose minds have been trained here, and which pale and fade before his! The grounds of Trinity, St. John, St. Peter, are the finest I have seen; the two former on, and each side of, the Cam, which is bridged by each college more than once, divided and conducted around and through the gardens, so as artificially to adorn them more, and to be made safe against inundation, — the latter not reaching to the river, but even more sweet and redolent of more and more careful and tasteful and modern horticulture. I seem to find here an image of the true and the great England. Here is a profusion of

wealth, accumulated and appropriated for ages, to a single and grand end, — the advancement of knowledge and the imparting of knowledge. It is embodied to the eye in a city of buildings, much of it beautiful, all of it picturesque and impressive, and in grounds shaded, quiet, fittest seats of learning and genius. Something there is of pictures; great libraries are here. Learned men, — who are only the living generation of a succession which, unbroken, goes back for centuries, and comprehends a vast proportion of the mind of the nation in all its periods, — in increasing numbers, tenant these walls, and are penetrated by these influences. A union of the old, the recent, the present, the prediction of the future, imaged in the buildings, in the grounds, by everything, is manifested, — giving assurance and a manifestation of that marked, profound English policy, which in all things acquires but keeps, — and binds the ages and the generations by an unbroken and electric tie."

The Journal abruptly breaks off with this heartfelt tribute, and was never resumed.

From this the travellers went to the north of England, to Edinburgh, Abbottsford, Glasgow, and through the lowlands of Scotland, and embarking at Liverpool, reached home in September.

CHAPTER VIII.

1850–1855.

Political Excitement — Union Meetings — Address on Washington, Feb. 1851 — The Case of Fairchild *v.* Adams — Address before the "Story Association" — Webster Meeting in Faneuil Hall, Nov. 1851 — Argues an India-Rubber Case in Trenton — Baltimore Convention, June, 1852 — Address to the Phi Beta Kappa Society, Burlington, Vt. — Journey to Quebec — Death of Mr. Webster — Letter to E. Jackson — Letter to Harvey Jewell, Esq. — Letter to Mrs. Eames — Offer of the Attorney-Generalship — Convention to revise the Constitution of Massachusetts — Eulogy on Daniel Webster, at Dartmouth College — Letter to his Daughter — Letters to Mrs. Eames — Letter to Mr. Everett — Letters to his Son — Letters to his Daughter — Address at the Dedication of the Peabody Institute, Sept. 1854 — Letters to Mr. Everett — Letter to Mrs. Eames — Accident and Illness — Letters to Mr. and Mrs. Eames.

THE state of the country in 1850 was such as to cause great anxiety among thoughtful men. The whole year was marked by a political excitement second only in intensity to that which has since produced such momentous results. The acquisition of new territory from Mexico re-opened the question of slavery. On the 7th of March, Mr. Webster made his memorable speech on "The Constitution and the Union." The law for the return of fugitive slaves excited much opposition among a portion of the people at the North, while at the South there was wide-spread apprehension and discontent. This feeling was exasperated in both parts of the country, by intemperate harangues, and inflammatory appeals through the newspapers. The excitement became at last so strong, that judicious and conservative men felt bound to protest against, and, if possible, allay it. Accordingly, Union meetings were held in different States, — in Alabama, Kentucky, Ohio, New York, Pennsylvania, New Hampshire, and Massachusetts, — and sound men of all parties united to deprecate the disloyal and hostile sentiments which were too frequently heard. The meeting in Boston was held in Faneuil Hall, on the 26th of

November. It was opened by Hon. Benjamin R. Curtis, with an address of great compactness and power, and closed with a speech from Mr. Choate replete with profound feeling as well as broad and generous patriotism; far-sighted and wise in pointing out the dangers of the Republic, and earnest and solemn even beyond his wont, in exhortation to avoid them.

In February, 1851, Mr. Choate delivered, in Charlestown, an address on Washington. He repeated it in Boston. It was marked by his usual fervor, and afforded him another opportunity of dwelling upon that public virtue which he feared was losing its high place and honor. An extract of a few pages will show its spirit.

"In turning now," he said, "to some of the uses to which this great example may contribute, I should place among the first, this, to which I have this moment made allusion; that is, that we may learn of it how real, how lofty, how needful, and how beautiful a virtue is patriotism.

"It is among the strangest of all the strange things we see and hear, that there is, so early in our history, a class of moralists among us, by whom that duty, once held so sacred, which takes so permanent a place in the practical teachings of the Bible, which Christianity — as the Christian world has all but universally understood its own religion — not tolerates alone, but enjoins by all its sanctions, and over which it sheds its selectest influences, while it ennobles and limits it; which literature, art, history, the concurrent precepts of the wisest and purest of the race in all eras, have done so much to enforce and adorn and regulate, — I mean, the duty of loving, with a specific and peculiar love, our own country; of preferring it to all others, into which the will of God has divided man; of guarding the integrity of its actual territory; of advancing its power, eminence, and consideration; of moulding it into a vast and indestructible whole, obeying a common will, vivified by a common life, identified by a single soul; strangest it is, I say, of all that is strange, we have moralists, sophists, rather, of the dark or purple robe, by whom this master-duty of social man, is virtually and practically questioned, yea, disparaged. They deal with it as if it were an old-fashioned and half-barbarous and vulgar and con-

tracted animalism, rather than a virtue. This love of country of yours, they say, what is it, at last, but an immoral and unphilosophical limitation and counteraction of the godlike principle of universal Benevolence? These symbols and festal days; these processions, and martial airs, and discourses of the departed great; this endeared name of America, this charmed flag, this memorial column, these old graves, these organic forms, this boasted Constitution, this united national existence, this ample and glorious history of national progress, these dreams of national fortune, — alas! what are they but shams, baubles, playthings for the childhood of the race; nursery ballads, like the Old Testament; devices of vanity, devices of crime, smelling villanously of saltpetre; empty plausibilities; temporary and artificial expedients, say hindrances, rather, by which the great and good, of all hemispheres and all races, are kept from running into one another's embraces; and man, the abstract, ideal, and subjective conception of humanity, after having been progressively developed, all the way up, from the brain of a fish, is, in this nineteenth century, sacrificed and smothered by his accidents! Do not stoop so low as to be a Patriot. Aspire to be a Philanthropist! To reform your country, not to preserve your country, is the highest style of man, nowadays. Root and branch work of it, is the word. If she goes to pieces in the operation, why, her time had come, and there is an end of an old song. It will be only the ancient myth of the fall of man and expulsion from Paradise, — nothing but a stage of progress, — just a bursting into a new life, rather different from the old, and more of it, — that is all!!

"It would be easy to expose the emptiness, presumptuousness, and dangers of such morality; but I direct you, for a better refutation, always to the life and death of Washington. Was not that patriotism, — virtue? Was it not virtue, entitling itself — in the language of the Christian Milton — entitling itself, after this mortal change, 'to a crown among the enthroned gods on sainted seats'? Was that patriotism selfish or vain or bloody or contracted? Was it the less sublime because it was practical and because it was American? This making of a new nation in a new world, this devising of instrumentalities, this inspiration of a spirit, whereby millions

of men, through many generations and ages, will come one after another to the great gift of social being, — shall be born and live and die in a vast brotherhood of peace, — mental and moral advancement, and reciprocation of succor and consolation, in life and death, — what attribute of grandeur, what element of supreme and transcendent beneficence and benevolence does it lack? Is it not obedience to the will of God? Does not He decree the existence of separate and independent nations on the earth? Does not the structure of the globe, its seas, mountains, deserts, varieties of heat, cold, and productions; does not the social nature of man, the grand educational necessities and intimations of his being; does not the nature of liberty; does not his universal history, from the birth of the world; do not all things reveal it, as a fundamental and original law of the race, — this distribution into several National Life? Is it not as profoundly true to-day as ever? '*Nihil est enim illi principi deo, qui omnem hunc mundum regit, quod quidem in terris fiat, acceptius quam concilia, cœtusque hominum jure sociati, quæ civitates appellantur.*'[1]

" Is not the national family as clear an appointment of nature and nature's God as the family of the hearth? Is it not a divine ordinance, even as love of parents and love of children? Nay, is it not, after all, the only practical agency through which the most expansive love of Man can be made to tell on Man? And if so, if the end is commanded, that is, if the existence of the independent and entire state is commanded, are not the means of ensuing that end commanded also? And if so, are not the traits, the deeds, the care, the valor, the spirit of nationality, the obedience to the collective will and reason as expressed through the prescribed organic form; are not all these sentiments, and all that policy, 'the great scenery, the heroic feelings, the blaze of ancient virtue, the exalted deaths,' which are directed specifically and primarily to the creation and preservation of the State, — are they not highest in the scale of things commanded? Must not 'being,' in the antithesis of Hooker, go before even 'well being'? Away then with this spurious and morbid morality of the purple robe, which erects the uses of some particular, moral, or social, or economical reform, that if not effected to-day, may be to-morrow, above

[1] Cic. De Rep. vi. 13.

the keeping of the Republic, which, once descended into the tomb of nations, shall rise not, till the heavens be no more; which dislocates impiously the fair and divinely appointed order of the duties, which thinks it savors of lettered illumination, to look down on that glorious family of virtues which holds kingdoms and commonwealths in their spheres. Give me back rather, give back to America rather, — she needs it yet, for a century, till her national being, so recent, so immature, is compacted to the consistency of pyramids, — give her back rather the faith and the philosophy of that day which prayed in every pulpit, for the arms of Washington; which in the gorgeous orientalism of Robert Hall, say rather of the Scripture itself, believed that, guided and inspired by the Mighty Hand, his hosts, in the day of battle, might have their eyes opened, to behold in every plain, and every valley, what the prophet beheld by the same illumination, — chariots of fire, and horses of fire; which saw in his escape from the wasting rifle-shot of the Monongahela, a prediction, and a decree of some transcendant public service, for which he was *saved*.

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"To form and uphold a State, it is not enough that our judgments believe it to be useful; the better part of our affections must feel it to be lovely. It is not enough that our arithmetic can compute its value, and find it high; our hearts must hold it priceless, above all things rich or rare, dearer than health or beauty, brighter than all the order of the stars. It does not suffice that its inhabitants should seem to you good men enough to trade with, altogether even as the rest of mankind; ties of brotherhood, memories of a common ancestry, common traditions of fame and justice, a common and undivided inheritance of rights, liberties, and renown, — these things must knit you to them with a distinctive and domestic attraction. It is not enough that a man thinks he can be an unexceptionable citizen, in the main, and unless a very unsatisfactory law passes. He must admit, into his bosom, the specific and mighty emotion of patriotism. He must love his country, his whole country, as the place of his birth or adoption, and the sphere of his largest duties; as the playground of his childhood, the land where his fathers sleep, the

sepulchre of the valiant and wise, of his own blood and race departed; he must love it for the long labors that reclaimed and adorned its natural and its moral scenery; for the great traits and great virtues of which it has been the theatre; for the institution and amelioration and progress that enrich it; for the part it has played for the succor of the nations. A sympathy indestructible must draw him to it. It must be of power to touch his imagination. All the passions which inspire and animate in the hour of conflict must wake at her awful voice."

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In the earlier part of this year Mr. Choate defended his pastor, Rev. Dr. Adams, on a charge of slander. The case was peculiar and presented some interesting points for the clerical profession in general.[1]

"The action of Fairchild *v.* Adams was for written and verbal slander. Mr. Fairchild, while pastor of a church in South Boston became a member of the Suffolk South Association of Ministers; Rev. Dr. Adams being also a member. Mr. Fairchild was privately charged by one Rhoda Davidson with being the father of her illegitimate child, — and she demanded of him a considerable sum of money. He paid her a part of what she demanded, and promised to pay her further sums, and wrote her a letter which was strongly indicative of the truth of the charge. The circumstances having become known to a few persons in his society, he asked a dismission, under a threat of exposure, and went to Exeter, N. H., where he was installed as a pastor. Having learned, soon after his settlement there, that there must be a public exposure of the affair, he attempted to commit suicide. Soon afterwards an ecclesiastical council met at Exeter, which advised that he should be dismissed from his charge, and degraded from the ministry. He was about this time indicted at Boston for adultery, but kept out of the State, and was not taken upon the warrant till after the lapse of a considerable time. He finally returned and took his trial, and was acquitted, as it was

[1] For the following account I am indebted to Mr. Justice Chapman, now of the Massachusetts Supreme Court, one of the referees before whom the case was tried.

understood, because the testimony of the witness Davidson was impeached. After this acquittal he returned to his former pursuit in South Boston, and received a call to settle there. A council was convened, which advised his settlement, taking the ground that his acquittal in a criminal court should be treated by an ecclesiastical council as conclusive evidence of his innocence. From this position Dr. Adams and other members of the association always dissented, and refused to recognize him as a minister.

"Before the meeting of the council at Exeter, some discussion had taken place in respect to the standing of Mr. Fairchild in the Suffolk South Association; and it had been arranged that the association should be governed by the result of that council. Accordingly after he had been degraded from the ministry, the association passed a vote, reciting that result, and expelling him from their body. After he had been again installed in South Boston, he requested of the association a copy of the vote by which they had expelled him. The copy was accordingly furnished him, after which he sent them a communication demanding that they should rescind the vote as a libel, and restore him to good standing as a member; and he proposed to appear before them, and offer evidence and arguments on the question of rescinding the vote, and proposed to some of the members to make inquiries of certain persons in respect to some of the accusations that had been made against him. The association gave him a hearing, and after its close, each of the members was called upon to give an opinion, with the reasons for it. Among others Dr. Adams gave his vote in favor of a resolution adverse to the restoration of Mr. Fairchild, and stated verbally his reasons for it. He was selected as the object of a suit, because he was a man of influence, and because of some personal feelings; and the written slander consisted of the resolution that was passed, and the verbal slander of the reasons stated by Dr. Adams for believing in the guilt of Mr. Fairchild.

"The cause was heard before referees agreed on by the parties, and several very interesting questions arose on the hearing. Among them was the question to what extent should ministers and churches be influenced by the acquittal of a man charged with a crime in a civil court. Mr. Choate contended

that inasmuch as the rules of evidence are different in civil and ecclesiastical tribunals; inasmuch as some things are regarded as criminal in one that may not be in the other; inasmuch as a defendant may be acquitted by the jury from mere doubt, or from collusion of the party with a witness who suffers his testimony to be broken down, or omits to disclose the whole truth, the verdict ought not *ipso facto* to restore the party, but should only furnish a ground of consideration for action. The debate on this point also led him to an investigation of the constitution, history, and usages of Congregational churches and associations of ministers.

"Another question was, whether associations of ministers had power to expel their members for alleged offences, without being held in an action of slander to prove to a jury that the party is guilty. On the part of Mr. Fairchild, it was contended that these bodies had no privileges in this respect beyond that of the ordinary slanderer, who utters a charge of crime against his neighbor where the matter does not concern him. On the part of Dr. Adams it was contended that the case came within the class called privileged communications; — that is, when in the transaction of business or the discharge of a duty, one person has proper occasion to speak of another, and in good faith and without malice alleges that he has been guilty of a crime. In such cases he may defend himself in an action for slander by proving that he thus acted, and without proving to the jury that the accusation is true. The discussion of this question led to an investigation of the authorities to be found in the books of law in reference to the general doctrine, and also to the nature and history of associations of ministers, and their relation to the churches. My minutes of the points and authorities are pretty full; but they would give no idea of the style and manner of Mr. Choate's argument.

"The referees were of opinion that associations are privileged to inquire into the conduct of their members, and in good faith to pass votes of expulsion, stating the reasons of their proceeding, and are not responsible to legal tribunals for the accuracy of their conclusions. They were satisfied that Dr. Adams acted in good faith, and made an award in his favor, which after argument, was sustained by the Court. The case is reported in 11 Cushing, 549."

In May, 1851, Mr. Choate argued a cause, which, whether estimated by the interests at stake, or the signal ability of the counsel, or the subtleness of the questions at issue, would undoubtedly be considered one of the most important in which he was ever engaged. It was that generally known as the "Methodist Church Case." It was heard in New York, before the Circuit Court of the United States, Justices Nelson and Betts presiding. At the time, it was, from obvious reasons, of the deepest interest to the whole Methodist world of the United States, and although it concerned property alone, yet the members and presses of the Church at the North always maintained most urgently, and apparently most truthfully, that the pecuniary gain or loss was quite inconsequential; that the real question was whether the General Conference of Churches could lawfully act so as to destroy the entirety of the Church; that if it could divide the Church in this instance, there was no limit to the future sub-divisions that might be made. It is, also, proper to state that the Church at the North was anxious to harmonize the existing dispute, and, it is understood, made, as they thought, a very liberal offer of compromise, which was rejected by the Southern Church.

This dispute originated in that prolific source of ill — slavery. Various questions, growing out of the connection of the Southern Churchmen with slavery, had, at various times, arisen in the Church, leading to a growing alienation of the two sections. Finally, at a General Conference of the then united Church, held at New York in June, 1844, a "plan of separation" was drawn up, looking to a final division of the Church, which, among other matters, provided that each section of the country should have its own Church, independent of the other; that ministers of every grade might attach themselves without blame to either Church, as they preferred; that a change of the first clause of the sixth restrictive article should be recommended, so as to read: "They shall not appropriate the produce of the Book Concern other than for the benefit of travelling, supernumerary, superannuated and worn-out preachers, their wives, widows, and children, and such other purposes as a General Conference may determine;" that on the adoption of this recommendation by the

Annual Conferences, the Northern Agents should deliver to the Southern Agents so much of certain property belonging to the Church as the number of travelling preachers in the Southern, bore to the number of the same class in the Northern Church; that all the property of the Church within the limits of the Southern organization should be forever free from any claim of the Church, and that the Churches, North and South, should have a right in common to use all copyrights of the New York and Cincinnati "Book Concerns" at the time of settlement.

Included in this was the large property called the "Book Concern," the proceeds of which were to be appropriated as the change in the first clause of the sixth article above stated shows, and which was originally instituted by that class which is now its beneficiaries. This "Book Concern" was vested in agents, and against them this action was brought by the Southern agents to compel a delivery of their share of the property.

The plaintiffs maintained that the resolutions of the General Conference were of binding force, and that the General Conference of the Southern Church had acted upon them in good faith, and passed resolutions declaring the expediency of separation; and that, after this action of the Southern Conference, a council of Northern Bishops met at New York, and passed resolutions ratifying the "plan" of the General Conference of 1844, regarding it as of binding obligation.

In reply to this, the defendants, admitting many of the plaintiffs' allegations, rested their defence mainly on the following propositions: —

1. That the resolutions of the General Conference of 1844, when properly understood, do not impart an unqualified assent of that body to a division of the Methodist Episcopal Church into two separate and distinct organizations or churches; that the assent thereby given was conditional and contingent, and that the conditions were not complied with, nor has the contingency happened.

2. That, if otherwise, the General Conference was not possessed of competent power and authority to assent to or authorize the division. And

3. That the division, therefore, that took place was a nul-

lity, and the separate organization a wrongful withdrawal and disconnection from the membership, communion and government of the Church, by reason of which the travelling, supernumerary, and worn-out preachers, composing the separate organization, are taken out of the description of the beneficiaries of the fund.

The decision of Justice Nelson was adverse to the Northern party; and this view was subsequently maintained by the Supreme Court in Washington.

In July of this year (1851), Mr. Choate again addressed the Law School at Cambridge, or rather "The Story Association," composed of the past and present members of the School. And here, moved by the dangerous heresies which seemed to him too familiarly received in the community, the orator urged upon the profession the new duty, as he called it, of checking the spirit of disloyalty, by correcting the public judgment, — by enlightening and directing the public sense of right. "This then," he said, "is the new duty, the *opus aureum*, to cherish the Religion of the Law — to win back the virtues to the service of the State, and with Cicero and Grotius, to make loyalty to Law the fundamental principle in each good man's breast. The capital defect of the day is, not that conscience is too much worshipped, but that it is not properly limited. Its true sphere is not properly seen and circumscribed. Men think that by the mere feeling within them of a sense of right, they can test great subjects to which the philosophy of ages leads the way, and can try a grand complex polity, embracing a multitude of interests and conflicting claims and duties. But these ethical politics do not train the citizen *ab extra* to be enlightened on these subjects.

"Morality should go to school. It should consult the builders of Empire, and learn the arts imperial by which it is preserved, ere it ventures to pronounce on the construction and laws of nations and commonwealths. For, unless the generation of Washington was in a conspiracy against their posterity, and the generation of this day, in high and judicial station, is in the same plot, the large toleration which inspires the Constitution and the Laws, was not only wise, but was indispensable to forming or keeping any union, and to the prosperity of us all.

"Let the babblers against the laws contemplate Socrates in his cell about to quaff the poison which Athens presented to him. He is pleading with his disciples for the sanctity of the very law which condemns him: he refuses to escape; and, 'after a brief discourse on the immortality of the soul,' he dies. Let them learn, that ere laws and constitutions can be talked about, they must at least be the subject of a special study. Their transcendental philosophy must condescend to study, not only the character, but even the *temper*, of a people, and this not *a priori*, but as it appears in the local press and public demonstrations. Then they would observe that there are *three great things* adverse to the permanence of our National Government, — *its recency, its artificial structure, and the peculiar facilities which the State organizations afford for separation;* and from this study they would learn how little they know what a work it was to found and keep the Republic and its laws. '*Tantæ molis erat Romanam condere gentem.*'

"To exercise this conservative influence, to beget a distrust of individual and unenlightened judgment, on matters of such vast import and extent, and to foster a religious reverence for the laws, is the *new duty* which the times demand of the legal profession."

During the years 1851 and 1852, notwithstanding the increasing demands of his profession, Mr. Choate continued deeply interested in national politics. There were many at the North dissatisfied with the compromise measures of 1850, and alienated from Mr. Webster, on account of his speech on the 7th of March. There were others who believed those measures to be in general wise and conciliatory, and that Mr. Webster never assumed a position more dignified and patriotic, or showed a more profound sense of the demands of the whole country. The Massachusetts Whigs of this class determined to call a public meeting, in order to present to the country the name of that great statesman as a candidate for the Presidency. The convention was held on the 25th of November, 1851, and proved to be one of the largest, most respectable, and most enthusiastic gatherings of the year. It was presided over by Hon. George Ashmun; and the principal address was made by Mr. Choate. Of all the tributes to Mr. Webster, never was one more hearty, more sincere, or more stirring than

that which he then delivered. His whole soul was alive with his theme. A sense of the injustice which that great statesman had suffered; of the angry and slanderous attacks made upon him by the little and malignant; of the insult which one of the boards of the city government had contrived to inflict by refusing to him — the first citizen of the State — permission to speak in Faneuil Hall; the ingratitude with which many at the North had requited his long and arduous and grand services, — all inspired the orator to a strain of fervid declamation which swept the vast assembly with him as if but one spirit moved them all.

The early part of the year 1852 was marked by nothing of peculiar interest. In March he made a powerful argument in an India-Rubber case, in Trenton, N. J. Mr. Webster was on the opposite side — one of his latest appearances in a case of great importance. Mr. Choate was said to have surpassed himself in learning, strength, and brilliancy; but of the argument, as of the great majority of speeches at the bar, absolutely nothing remains — *ipsæ periere ruinæ.*

The Whig Convention for the nomination of a candidate for the Presidency, — the last National Convention of the party, — met in Baltimore on Wednesday the 16th of June, 1852. The secret history of it is yet to be written.

The place of meeting was a spacious hall. The members occupied a raised platform in the centre; spectators, from all parts of the country, sat upon benches at the sides, while the gallery was filled with ladies. Two days were spent in effecting an organization, and preparing a series of resolutions. It was considered doubtful whether a platform could be agreed upon, binding the party to the "compromise measures," as they were called. As these measures were not entirely acquiesced in by many of the Northern members, it was supposed to be the policy of some to make the nomination without a declaration of political sentiments on the question of slavery, and then to resolve that no such declaration was necessary. If this were the plan, it did not succeed. It was understood that General Scott had written to some member of the Convention assenting to these 'measures,' though for some reason the letter had not been produced. The resolutions were at length read, and all eyes turned toward the seats occupied by

the Massachusetts delegates. Mr. Choate presently rose; it was about half past five o'clock on the afternoon of Friday. The thousand fans ceased to flutter, and the hall was silent with expectation. He began in a quiet manner, as he usually did, with an allusion to the general sentiment of the platform itself, and then broke into a more fervent strain of thanksgiving to God, that a sentiment urged before, many times and in many places, seemed now likely, by so near an approach to unanimity, to be adopted and promulgated by that authority, among the highest which he recognized, the National Whig Party of the United States, in General Convention assembled.

"Sir," said he, "why should not this organ of one of the great national parties, which, pervading the country, while they divide the people, confirm the Union, — for I hold that these party organizations, wisely and morally administered, are among the most powerful instrumentalities of union, — here, now, and thus declare, that, in its judgment, the further agitation of the subject of slavery be excluded from, and forbidden in, the national politics? Why should it not declare that if agitation must continue, it shall be remitted to the forum of philanthropy, of literature, of the press, of sectional organization, of fanaticism, organized or unorganized; but that the Federal Government has in this field closed its labors and retires, leaving it to the firmness of a permanent Judiciary to execute what the Legislature has ordained?

"Why should we not engage ourselves to the finality of the entire series of measures of compromise? Does any member of this body believe that the interests of the nation, the interests of humanity, our highest interests, our loftiest duties, require an attempt to disturb them? Was it needful to pass them? Did not a moral necessity compel it? Who now doubts this? I do not deny that some good men have done so, and now do. I am quite well aware that fanaticism has doubted it, or has affected to doubt it, to the end that it may leave itself free, unchecked by its own conscience, to asperse the motives of the authors and advocates of this scheme of peace and reconciliation, — to call in question the soundness of the ethics on which it rests, and to agitate forever for its repeal. But the American people know,

by every kind and degree of evidence by which such a truth ever can be known, that these measures, in the crisis of their time, saved this nation. I thank God for the civil courage, which, at the hazard of all things dearest in life, dared to pass and defend them, and 'has taken no step backward.' I rejoice that the healthy morality of the country, with an instructed conscience, void of offence toward God and man, has accepted them. Extremists denounce all compromises, ever. Alas! do they remember that such is the condition of humanity that the noblest politics are but a compromise — an approximation — a type — a shadow of good things — the buying of great blessings at great prices? Do they forget that the Union is a compromise; the Constitution — social life, — that the harmony of the universe is but the music of compromise, by which the antagonisms of the infinite Nature are composed and reconciled? Let him who doubts — if such there be — whether it were wise to pass these measures, look back and recall with what instantaneous and mighty charm they calmed the madness and anxiety of the hour! How every countenance, everywhere, brightened and elevated itself! How, in a moment, the interrupted and parted currents of fraternal feeling reunited! Sir, the people came together again, as when, in the old Roman history, the tribes descended from the mount of secession, — the great compromise of that constitution achieved, — and flowed together behind the eagle into one mighty host of reconciled races for the conquest of the world.

"Well, if it were necessary to adopt these measures, is it not necessary to continue them? In their nature and office, are they not to be as permanent as the antagonisms to which they apply? Would any man here repeal them if he could command the numerical power? Does he see anything but unmixed and boundless evil in the attempt to repeal them? Why not, then, declare the doctrine of their permanence? In the language of Daniel Webster, 'Why delay the declaration? Sink or swim, live or die, survive or perish, I am for it.'

"Sir, let me suggest a reason or two for this formality of announcement of such a declaration in such a platform. In the first place, our predecessors of the Democratic Convention, in this hall, have made it indispensable. If we do not make it as

comprehensive and as unequivocally as they have, we shall be absorbed, scattered! — absorbed by the whirlpool, — scattered by the whirlwind of the sentiment of nationality which they have had the sagacity to discern and hide under. Look at their platform, and see what a multitude of sins of omission and commission, bad policy and no policy, the mantle of national feeling is made not ungracefully to cover. And remember that you may provide a banquet as ample as you will; you may load the board with whatever of delicacy or necessity; you may declare yourselves the promoters of commerce, wheresoever, on salt water or fresh water, she demands your care; the promoters of internal improvements, — of the protection of labor, promising to the farmer of America the market of America, — of peace with all nations, entangling alliances with none, — of progress, not by external aggression, but by internal development; spread your board as temptingly as you will, if the national appetite does not find there the bread and water of national life, the aliment of nationality, it will turn from your provisions in disgust.

"Again: some persons object to all such attempts to give sacredness and permanence to any policy of government, or any settlement of anything by the people. They object to them as useless, as unphilosophical, as mischievous. The compromise measures are nothing, they say, but a law; and, although we think them a very good law, yet better turn them over to the next elections, the next Presidential canvass, the next session of Congress, to take their chance. If they are of God, of nature, of humanity, they will stand anyhow; and if not, they ought not to stand.

"I am not quite of this opinion. I know, indeed, how vain it is to seek to bind a future generation, or even a future day. I see the great stream of progress passing by, on which all things of earth are moving. I listen, awe-struck, to the voice of its rushing. Let all who have eyes to see and ears to hear, see and hear also. Still I believe something may be done at favorable junctures to shape, color, confirm even, so capricious and so mighty a thing as public opinion. This is the theory on which written constitutions are constructed. Why such toil on these, unless in the belief that you may and should seek to embody and fix an important agreement of the na-

tional mind,—may for a little space moor the ship against the stream, and insure that when she is swept from that mooring, she may not be instantly shattered, but float with some safety, and under some control, to the ocean?

"I believe, and have many times asserted and enforced the idea, that if the two great national parties would now, in this most solemn, public, authoritative manner, unite in extracting and excluding this business of the agitation of slavery from their political issues,—if they would adjudge, decree, and proclaim that this is all a capital on which a patriotic man, or body of men, may not trade; that the subject is out of the domain of politics, disposed of by the higher law of a common national consent, founded on a regard for the common good, — and that if they would go into the coming and all contests upon their proper and strict political issues, each contending with the other only for the glory of a greater participation in the compromise, much would be done to perpetuate the national peace within, which we now enjoy. Whatever the result of the canvass, and however severely it might be conducted, it would be one great jubilee of Union, in which the discordant voice of sections and fanaticism would be silenced or unheard.

"Let me trouble you with one more reason for adopting this compromise. Sir, let us put it out of our power to be tempted, in the excitement of this election, to press the claims of our candidates in one part of the country on the ground that his success will extinguish agitation, and to press the claims of the same candidate in another part of it on the ground that his success will promote agitation. As gentlemen and men of honor and honest men, let us take the utmost security against this. Who does not hang down his head in advance with shame, at the fraud and falsehood exemplified in going into one locality and crying out of the Northern side of our mouths, 'No platform! — agitation forever! — ours is the candidate of progress and freedom!' And then going into another and shouting through the Southern side, 'All right! — we are the party of compromise! — we have got no platform, to be sure, but Mr. So-and-so has got a first-rate letter in his breeches-pocket, and Mr. So-and-so is vehemently believed to have one in his, — either of them as good as half

a dozen platforms.' Pray, if you love us, put us into no such position as this. Lead us not into such temptation, and deliver us from such evil. How much better to send up the Union flag at once to each masthead, blazing with 'Liberty and Union, now and forever, one and inseparable,' and go down even so!"

The effect of this speech upon the audience who frequently interrupted him with enthusiastic applause, was indescribable. After the cheering had somewhat subsided, remarks were made by several members of the Convention, and a running conversation for some time kept up concerning the letter of General Scott, till finally one was produced and read. Mr. Botts in the course of his remarks criticised Mr. Choate for an implied imputation upon General Scott, and an implied commendation of Mr. Webster. He closed by asking whether he should move the adoption of the resolutions and call for the previous question, saying, however, that he would not do so, even at the request of the entire Convention, if the gentleman from Massachusetts felt aggrieved at his remarks and desired to respond. There were loud cries for "Choate." "First," says one who was present, "by his friends of the Convention, then by his partisans on the floor, and then by the gay galleries. The chorus was immense, imperative, and determined." After some hesitancy he at last rose, and in a tone of imperial grace said, "I shall endeavor to keep within the rule laid down by the chairman. I beg to assure gentlemen that nothing in the world was further from my intention than to enter upon any eulogy of that great man, my friend of so many years, whose name is as imperishably connected with a long series of all the civil glories of his country as it is with this last and greatest of his achievements. I assure you, Sir, upon my honor, and I assure the gentleman from Virginia on my honor also, that I rose solely and simply to express, in the briefest possible terms, the convictions of myself and of many gentlemen here on the merits of the general subject itself, without appreciating what possible influence the remarks I might submit would exert on the chances of this, that, or the other eminent person for receiving the nomination of the Convention."

Being interrupted here by a question from Mr. Botts,

"Whether he understood the gentleman rightly as saying that he did not mean to depreciate any other candidate, when speaking of that one who was his first choice," he proceeded, "I meant to present a sound argument to the Convention, to the end that this Convention might stand committed as men of honor everywhere. I say here and everywhere, give us that man, and you will promote peace and suppress agitation; and if you give us any other, you have no assurance at all that that agitation will be suppressed.

"I am suspected of having risen to pay a personal compliment to that great name with which I confess my heart is full to bursting, because I stand here, according to my measure, to praise and defend the great system of policy which the unanimous judgment of this Convention has approved, or is about to approve and promulgate. Ah, Sir, what a reputation that must be,—what a patriotism that must be,—what a long and brilliant series of public services that must be, when you cannot mention a measure of utility like this but every eye spontaneously turns to, and every voice spontaneously utters, that great name of DANIEL WEBSTER.

"I have done, Sir. I have no letter to present, written last week, or the week before last. Mr. Webster's position on this question dates where the peace of the country had its final consummation, on the 7th of March, 1850.

"But, Sir, I did not intend to electioneer in the slightest degree. If my friend from Virginia will recall the course of my observations, he will find that I confined myself exclusively to the defence of the measure itself. But so it is that there is some such reputation that you cannot stand up and ask for glory and blessing, and honor and power, or length of days upon America, but you seem to be electioneering for that great reputation."

The scene that followed was one of intense enthusiasm. Bouquets were thrown at the feet of the orator, and every demonstration made which could indicate homage and delight. All were amazed at the ingenuity of the speech as well as captivated by its eloquence. The platform was adopted by a vote of 227 to 66.

There was another speech made by Mr. Choate during the sitting of the Convention, at a private entertainment given by

the Massachusetts members to some of those from the South-west, which is said to have produced the greatest delight and enthusiasm. The gathering was arranged with the hope that it might lead the Southerners to cast their votes for Mr. Webster. Mr. Choate had not been consulted; the heat of the weather was intense, and he had gone to bed with a sick-headache. One of his friends went to him and asked him to be present. "It is impossible," he replied, "I am too ill to hold up my head. I have not strength to say a word." He was told that he need say but little, and that it was for Mr. Webster, — his last chance of influencing the delegates in favor of that just and grand nomination. On this view of the case he immediately assented, rose and went to the table. He was too unwell to take anything and spoke but about fifteen minutes. I have never heard what he said; it may be imagined by those who knew his love for Mr. Webster and his deep sense of the injustice likely to be done him; but it carried away that little audience as with a whirlwind. They seemed half beside themselves, — sprung from their seats, jumped upon the chairs and benches, broke their glasses, and acted like wild men. But the efforts of the friends of Mr. Webster were without avail. The Southern members offered to come with one hundred and six votes, when forty votes should be obtained from the North; but so firmly determined were some of the Northern delegates, that this number could not be found. The vote for Mr. Webster never exceeded thirty-two. At the fifty-third ballot Gen. Scott received the nomination.

In August, 1852, Mr. Choate addressed the Phi Beta Kappa Society, of the University of Vermont, on the "Intervention of the New World in the affairs of the Old; — the Duty, the Limitations, and the Modes." It was high-toned, conservative and wise. The subject was suggested by recent events in the East, and especially by the visit of Kossuth to this country. The oration opened with the following tribute to the eloquent Hungarian.

"To his eye who observes the present of our own country, and of the age, heedfully, — looking before and after, every day offers some incident which first awakens a vivid emotion, and then teaches some great duty. Contemplate, then, a sin-

gle one of such a class of incidents; give room to the emotions it stirs; gather up the lessons of which it is full.

"On the fifth day of the last December, there came to this land a man of alien blood, of foreign and unfamiliar habit, costume, and accent; yet the most eloquent of speech, according to his mode,—the most eloquent by his history and circumstances,—the most eloquent by his mission and topics, whom the world has, for many ages, seen; and began, among us a brief sojourn,—began, say rather, a brief and strange, eventful pilgrimage, which is just now concluded. Imperfect in his mastery of our tongue,—he took his first lessons in the little room over the barrack-gate of Buda, a few months before,—his only practice in it had been a few speeches to quite uncritical audiences in Southampton, in Birmingham, Manchester and Guildhall; bred in a school of taste and general culture with which our Anglo-Saxon training has little affinity and little sympathy; the representative and impersonation, though not, I believe, the native child, of a race from the East, planted some centuries ago in Europe, but Oriental still as ever, in all but its Christianity; the pleader of a cause in which we might seem to be as little concerned as in the story of the lone Pelops or that of Troy divine; coming before us *even such*—that silver voice, that sad abstracted eye, before which one image seemed alone to hover, one procession to be passing, the fallen Hungary—the 'unnamed demigods,' her thousands of devoted sons; that earnest and full soul, laboring with one emotion; has held thousands and thousands of all degrees of susceptibility; the coldness and self-control of the East—the more spontaneous sympathies of the West—the masses in numbers without number—Women—Scholars—our greatest names in civil places—by the sea-shore—in banquet halls—in halls of legislation—among the memories of Bunker Hill—everywhere, he has held all, with a charm as absolute as that with which the Ancient Mariner kept back the bridal guest after the music of the marriage feast had begun.

"The tribute of tears and applaudings; the tribute of sympathy and of thoughts too deep for applaudings, too deep for tears, have attested his sway. For the first time since the transcendent genius of DEMOSTHENES strove with the downward age of Greece; or since the Prophets of Israel announced

— each tone of the hymn grander, sadder than before — the successive foot-falls of the approaching Assyrian beneath whose spear the Law should cease and the vision be seen no more; our ears, our hearts, have drunk the sweetest, most mournful, most awful of the words which man may ever utter, or may ever hear — the eloquence of an Expiring Nation.

"For of all this tide of speech, flowing without ebb, there was one source only. To one note only was the harp of this enchantment strung. It was an appeal not to the interests, not to the reason, not to the prudence, not to the justice, not to the instructed conscience of America and England; but to the mere emotion of sympathy for a single family of man oppressed by another — contending to be free — cloven down on the field, yet again erect; her body dead, her spirit incapable to die; the victim of treachery; the victim of power; the victim of intervention; yet breathing, sighing, lingering, dying, hoping, through all the pain, the bliss of an *agony of glory!* For this perishing nation — not one inhabitant of which we ever saw; on whose territory we had never set a foot; whose books we had never read; to whose ports we never traded; not belonging in an exact sense to the circle of independent States; a province rather of an Empire which alone is known to international law and to our own diplomacy; for this nation he sought pity — the intervention, the armed intervention, the material aid of pity; and if his audiences could have had their will, he would have obtained it, without mixture or measure, to his heart's content!

"When shall we be quite certain again that the lyre of Orpheus did not kindle the savage nature to a transient discourse of reason, — did not suspend the labors and charm the pains of the damned, — did not lay the keeper of the grave asleep, and win back Eurydice from the world beyond the river, to the warm, upper air?

"And now that this pilgrimage of romance is ended, the harp hushed, the minstrel gone, let us pause a moment and attend to the lessons and gather up the uses of the unaccustomed performance."

Immediately after this college anniversary he made a brief journey to Quebec, going along the accustomed line of travel

by Montreal and the St. Lawrence, and retracing his way along the same line quite to New York. This naturally led him to the places distinguished in the earlier wars, at most of which he stopped, refreshing and verifying his knowledge, kindling anew his patriotism at every hallowed spot, from the Falls of Montmorenci, and the Plains of Abraham, to the mouth of the Hudson. The weather was delightful and the trip altogether invigorating to both body and mind.

In the Fall of this year, the country suffered a loss, the greatness of which time alone can disclose. Mr. Choate felt it not only as an irreparable public calamity, but as a personal bereavement, for which there was no remedy.

From the Baltimore Convention the friends of Mr. Webster returned with an uncontrollable feeling of disappointment and with a deep sense of wrong. But before the day of election, he, for whom they had struggled, had closed his eyes forever upon this earth. Mr. Webster died on the 24th of October. On the 28th, the members of the Suffolk Bar presented to the United States Circuit Court, then in session, a series of resolutions expressive of their sense of the loss, and Mr. Choate with other eminent lawyers addressed the court. He spoke with entire quietness of manner, and with the deepest feeling, and his words seem to contain the germs of almost all the eulogies afterwards pronounced upon the great New England statesman.

As soon as a sense of propriety would allow, Mr. Choate received solicitations from very respectable bodies in different parts of the country, to deliver a more formal and extended eulogy. He accepted that which came first, from the Faculty and Students of Dartmouth College, influenced still more, perhaps, by his deep and truly filial affection for the place. After the announcement of this was made public, he received a letter from a gentleman in Connecticut, suggesting resemblance between Mr. Webster and some other eminent men, particularly Sir Walter Scott. The following is his answer.

To E. JACKSON, ESQ., Middletown, Conn.

"Boston, 10th Dec. 1852.

"DEAR SIR, — I was extremely struck and gratified by the kindness of your note to me, and by the parallel which it suggested and pursued. Scarcely anything in literary or public biography is more curious or just.

I mentioned the thought to Mr. Curtis, — Geo. T. Curtis, — on whom it made instantly the same impression. I think the patriotism of Fox was less trustworthy, (having regard to his stormy ambition,) and his character less balanced and dignified. He had less eloquent feeling too, and less poetical feeling, and no veneration, and his whole intellectual toil was one mighty tempestuous debate. In naturalness, warmth of heart, and prodigious general ability in political affairs and public speech, he does remind us of Mr. Webster.

"But to Scott the likeness is quite remarkable. I can add nothing to your conception of it, — but of that I shall try to profit. Mr. Curtis told me that 'if Mr. Jackson could have heard Mr. Webster's conversations with regard to keeping the Marshfield estate in the family, he would have been more forcibly reminded of Scott.' Both felt the desire to be *founders;* neither won fortune, nor transmitted inheritances in lands. Both made deep and permanent impressions *wholly* useful on their time and the next; and both linked themselves — shall we say forever — to the fondest affections as well as reasonable regards of very intellectual races.

"I am with great respect, Your servant and friend,

"Rufus Choate."

The treatment which Mr. Webster received at the Baltimore Convention had alienated many Whigs at the North, and inclined them to vote for the Democratic electors. Mr. Choate's position will be indicated by the following letter:

"To Harvey Jewell, Esq., President of the Young Men's Whig Club.

"Boston, 30th October, 1852.

"Dear Sir, — I certainly can have no unwillingness to repeat quite formally, what I have informally said so many times to so many of our friends.

"That I regretted very keenly our failure to place Mr. Webster in nomination, I, of course, have never disguised. So much, too, did I love him, and so much, so filially — perhaps for him so unnecessarily — desire, that in all things his feelings might be respected, his claims acknowledged, and the effect of the proceedings of the Convention on him mitigated, that, although I have ever deemed those proceedings as obliging my vote as a Whig, yet I had decided that it would not be decorous or right, having respect to those relations with him, which have been and are in their memory so dear to me, to take any active part in setting on the head of any other the honors which he had earned.

"But that the true interests of the country, as our party has ever apprehended those interests, require, in the actual circumstances, the election of the eminent person who is our regular candidate, I cannot doubt. As a Whig, still a Webster Whig, — standing at his grave and revering his memory, I think that more of his spirit, more of his maxims of government, more of his liberal conservatism, more peace, a more assiduous culture of that which we have, with no reckless grasping for that which we have not, would preside in the administration of Gen. Scott than in that of his Democratic competitor for the Presidency.

"There are good men who esteemed Mr. Webster and Mr. Clay so highly and justly, as to hope that while they lived, although out of office, their counsels would still be of power to repress the tendencies to evil, which they fear from the ascendency of our political opponents. But now that those lights are passed and set, must we not all, and those of us with a special solicitude, who followed them with most confidence, turn to others, whose association and ties of party, whose declared opinions, whose conduct of affairs, and whose antecedents afford the surest trust, that their practical politics will be those which we have so advisedly adopted, and so long professed? With these politics, and the great party representing them, Gen. Scott is identified. His election would pledge his character and honor to seek through them, and by them, the common good and general welfare, and there is no reason to doubt that the convictions of his judgment would guide him by the same path. Certainly he is a Whig; and he has rendered the country great services, in important conjunctures, in war and peace.

"It is quite needless to say, then, that I shall vote for the regularly nominated Whig ticket of electors. He, — the best beloved, the most worthy, — is in his grave. Duty subsists, still and ever, and I am entirely persuaded that duty requires of me this vote.

"I am respectfully,

"Your obdt. servt.,

"RUFUS CHOATE."

The regular correspondents of Mr. Choate were few. He had not much time to give up even to that society which was most attractive. Of those to whom he wrote with the freedom of a warm and sympathizing friendship, were Hon. Charles Eames and Mrs. Eames. A few of these letters have been kindly placed at my disposal.

"Boston, Dec. 4th, 1852.

"MY DEAR MRS. E., — . . . . You were wholly right, and not the less kind, to assume an explanation of my silence consistent with my fixed and enhancing appreciation of your friendship. . . . .

"I have been here occasionally, and hurriedly only, since I last wrote you; but my chief time and duties have been engaged to my mother, on the verge of a timely grave, yet sick beyond the mere inflictions of eighty years. She is living yet, and better. . . . .

"Till yesterday I had nourished a secret, but great thought of just running on to Washington for four days, not to supersede, but to prepare for my January visit. Likewise, I could not go. . . . .

"I am to congratulate you, and Mr. Eames, personally, on the election which he has influenced so much. May every reward he would seek be his. Choose wisely and well, and above all fix your hearts on something at home. But why should I grudge you the Fortunate Isles, the Boulevards, Damascus rose cinctured, if you wish it? Give my love to him. Wish Mr. Davis and Mr. Everett well. 'Pray (as poor Mr. Webster said,) for the peace of Jerusalem,' and especially for your attached friend,

RUFUS CHOATE."

Early in 1853, Mr. Choate lost his aged and venerable mother. He always retained for her the most filial respect and affection, and although her death, at her advanced age, was not unexpected, it filled him with deep sorrow. Almost at the same time he received from Governor Clifford the offer of the Attorney-Generalship of the State. This he accepted, not for its emoluments,—which were inconsiderable, while the labor was great, — but partly because he considered it an honorable position, and in part because he was desirous of being freed from a certain class of distasteful cases which he did not feel quite at liberty to decline. The great labor in this office arose from the fact that judicial interpretation of the liquor law of 1852, popularly called the "Maine Law," became necessary, and a large number of cases came under his charge for argument, some of them involving grave constitutional questions. To the study of these cases he devoted much time and labor. The criminal *nisi prius* trials he disliked; and this, together with certain mere drudgeries of office, caused him to resign his commission after holding it a little more than a year.

On the 3d of May, 1853, the third convention of the delegates of the people of Massachusetts met in Boston to revise the Constitution of the State. It is doubtful whether an abler body of men ever assembled in the State. Every county sent its best and wisest citizens. The convention continued its sessions till the 1st of August. The subjects brought into discussion were fundamental to the being and prosperity of States. In this dignified and weighty assembly Mr. Choate spoke on some of the most important questions, and never without commanding the highest respect. His speeches on the Basis of Representation, and on the Judiciary, (the latter of which will be found in these volumes,) were listened to with profound interest, and will rank with the best specimens of deliberative eloquence.

During this summer, and in the midst of various distracting public and professional duties, he caught time as he could, for preparing the eulogy upon Mr. Webster. How he wrote it may be inferred from a little anecdote furnished by one who subsequently became a member of his family by marrying his youngest daughter.[1] "I returned from Europe," he says, "in

[1] Edward Ellerton Pratt, Esq.

1853, and reached Boston the 7th of July. I went to Mr. Choate's house about 9 o'clock that evening, and found him in his chamber reclining in bed in a half-sitting posture. On his knees rested an atlas, lying obliquely; in his left hand he held a lamp, while another was balanced on a book; in his right hand was his pen. He playfully excused himself for not shaking hands with me, saying that he feared the sharp reproaches of Mrs. C. if he should by any mischance spill the oil. On my asking him what, at that time of night, and in that singular position, he was doing, he said he was trying to get a few things together to say at Dartmouth College in relation to Mr. Webster. He had put it off so long, he said, was so hampered with work at his office, and had to give so much time to the Constitutional Convention, then in session, that he had almost made up his mind to write to the officers of the college asking to be let off. 'If I deliver it,' he added, 'it will be wholly inadequate to the theme.' He did deliver it, however, but he said to me the day before he went to Dartmouth that any friend of his would stay away, for, although so much time was given to write it in, it was one of the most hurried things he had ever done."

With the high ideal that was before his mind, to him "much meditating" on the greatness of Mr. Webster, and feeling how interwoven was his life with the later history of the country, it is not surprising that he felt the insufficiency of any eulogy. Yet one would be at a loss to know where, in all the records of such eloquence, for fulness, suggestiveness, and discrimination, for richness and vitality, for beauty of language and felicity of allusion, for compactness and for amplification, to find another to equal it.

TO HIS DAUGHTER SARAH.

Monday, August, 1853.

"DEAR SALLIE, — The accompanying letter came to me to-day, and I send it with alacrity. I wish you would study *calligraphy* in it, if what I see not, is as well written as what I do. I got quietly home, to a cool, empty house, unvexed of mosquito, sleeping to the drowsy cricket. It lightened a little, thundered still less, and rained a half an hour; but the sensation, the consciousness that the Sirian-tartarean summer is really gone — though it is sad that so much of life goes too — is delightful. Next summer will probably be one long April or October. By the way, the dream of the walnut grove and the light-house is finished. They

will not sell, and the whole world is to choose from yet.[1] I see and hear nothing of nobody. I bought a capital book to-day by Bungener, called 'Voltaire and his Times,' fifty pages of which I have run over. He is the author of 'Three Sermons under Louis XV.', and is keen, bright, and just, according to my ideas, as far as I have gone. My *course* this week is rudely broken in upon by the vileness and vulgarity of business, and this day has been lean of good books and rich thoughts, turning chiefly on whether charcoal is an animal nuisance, and whether Dr. Manning's will shall stand. Still, Rufus will be glad to hear I read my Æschines and Cicero and German Martial, and, as I have said, this Bungener.

"I wish you would all come home, that is, that your time had arrived. Pick up, dear daughter, health, nerves, and self-trust, and come here to make the winter of our discontent glorious summer.

"Thank your dear mother and Rufus for their letters. I hope for Minnie a neck without a crick, and a lot without a crook, if one may be so jinglesome. One of the Choates of Salem called in my absence — if Daniel did not see a *doppel-gänger*, in a dream — but which, where he is, what he wants, where he goes, or how he fares, I know not. I would invite him to dine, if I knew where he was. Best love to all. Tell your mother I don't believe I shall write her for two or three days, but give her, and all, my love. I like the court-house prospect and the Bucolical cow, and verdant lawn *much*, as Minnie says. Good-by, all.

"R. C."

During this fall, his health, which with the exception of severe headaches, had been generally good, occasioned himself and his friends some anxiety. He alludes to it in the following letters.

To Mrs. Eames.

"Boston, 13th Nov. 1853.

"My dear Mrs. Eames, — . . . . I had a narrow escape from going just now to New York, and then taking a flying aim at Washington. The Doctors and I have changed all that, and resolved that instead of any such unsatisfactory splurging, I should go quietly to Washington, like a grave citizen and elderly lawyer, and make, as it were, a business of it, see my friends, try a case, go to the theatre and the levee, and all the rest of it, say in December or January. . . . . I have come quite near being placed among the *Emeritus* Professors in the great life university, that reserved and lamentable corps, whose 'long day is done,' and who may sleep.

"There again the Doctors and I were too much for them, and I am all right again, with injunctions to do but little, nor do that little long, at a time. Such a change of life sets me thinking, which is disagreeable, and resolving, which only paves bad places with good intentions. . . . .

"I must say I think your administration — toil though it does and spin — is not yet arrayed with all the glory of Solomon, or even of the lilies of the field.

"Yours truly,

"R. Choate.

"P. S. — Mr. Everett is rising in my telescope."

[1] Referring to a project of purchasing a site for building at Essex.

To MRS. EAMES.

"Boston, 17th Dec. 1853.

"MY DEAR MRS. EAMES, — I took the liberty yesterday to address to you the first two volumes of Lord J. Russell's 'Moore,' and to ask our Little and Brown to include it in their collections for the Washington Express. Mine I have not yet received, but I promise myself that the thing will have some interest with those old people at least who began life, as I did, upon 'I saw from the beach,' 'Vale of Avoca,' 'Erin go Bragh,' and all the rest of it. Whether it will for you, I fear and doubt, yet you will agree that we have never seen and never shall see anything like that glorious constellation of poets which illustrated the first twenty-five or thirty years of this century, and which has set to the last star. Beaming brightly and singing like a seraph, sometimes, among these lights, was poor Moore. Therefore I hope the package will go safely and come regularly to hand, as the merchants' clerks do write.

"My visit to Washington recedes like any horizon. Mr. Davis has me in charge, but any time after the 10th of January, if he bids me come, I come. Please to entreat him to hasten that day, as he hopes to have his eulogy read and appreciated.

"Our winter has come frosty but kindly. Thus far, as a mere matter of cold, heat, snow, it is as good as a Washington winter. I do not say that it presents just the same aggregate and intensity of moral, social, and personal interest.

"Please give my best regards to Mr. Eames and all friends.

"Most truly yours,

"R. CHOATE."

The following letter to Mr. Everett, (then a member of the United States Senate,) with its reference to topics of great national importance will explain itself.

To HON. EDWARD EVERETT.

"Boston, 4th Feb. 1854.

"DEAR SIR, — I have not delayed to answer your letter for want of interest in the subject, and still less from want of strong personal desire that your own course should be as fortunate as it will be conspicuous and influencive. But in truth, I did not know enough of the whole ground of opinion and duty and hazards, to make my suggestions of real value, and yet, good for nothing else, they might mislead. Meantime, as far as I can possibly discern, the whole *free world* of the United States seems likely to demand the observance of the Missouri Compromise. I must say, that I think that a speech and a course adhering to that great adjustment, and reconciling that with the compromises of 1850, will be claimed here, and I should be amazed and grieved, if this could do harm anywhere. Yet for myself, I should consult the *spirit* of the proceeding of 1850 and execute that, whithersoever it led. But I cannot yet see how that should demand such a measure as this of Mr. Douglas.

"The result, with me and with all here, is that we feel the deepest solicitude that you should not be drawn into a position which can impair

your large prospects, and that we hope that you may defeat the further extension of slavery on grounds and by reasonings that will not lose you one American heart or judgment anywhere.

"I am most truly,

"Your servant and friend,

"RUFUS CHOATE.

A few letters here to his son, then a student in Amherst College, and to his daughter Sarah, will give us an insight into the thoughts and ways of home.

TO RUFUS CHOATE, JR.

"Boston, Feb. 13, 1854. Monday morning, six o'clock.

"MY DEAREST SON, — I am afraid the elite of Amherst are not stirring quite so early as this, but as my writing here by my lamp does not disturb you, and as I think of you always, but with peculiar interest and love when I look round my study at this early hour, I will say a word while M. is waiting for the coach to carry him to the Portland cars.

"I have had a very fatiguing winter, contending — as the French bulletins used to say when badly beaten — 'with various success.' However, I have had my share of causes, and my chief grief after S.'s sickness, has been that I have had so little time for literary readings. Euripides stands neglected on the shelf, Alcestis dying alone, and the last days of Augustus are as if Tacitus had not recorded them with his pen of steel. You are happier in having days and nights for the most delightful of all things, the studies of college. My dear son, make much of this fleeting hour, and all future exertions and acquirements will be easy. . . . . To see you come out of college affectionate, true, pure, and a good scholar, to begin the law at Cambridge with hope and ambition, is the desire which more than all else gives interest to my future. . . . . M. has gone. Daniel appears with the newspapers; it approaches sunrise, and I must turn to prepare for 'Gray et al. *v.* Coburn," for the hour and a quarter before breakfast. Good-by."

TO HIS DAUGHTER SARAH.

"Boston, 9 July, [1854.]

"DEAREST SALLIE, — I was delighted to find your letter and mother's on my return from the broiled, though sea-girt, Nantucket. I will not say that I could read a word of it, before the affectionate and craving Helen carried it off, — snatched it as one may say, from the unsated parental jaws. But at dinner with her to-day I shall recover it *interpreted*.

"I am sorry the geography is a failure. Astronomy and St. Pierre — stars and harmonies of earth, I hope will enable you to support the necessary delay in finding another. Meantime the Russian war is going to end; the Turkish moons are at the full; and except Kansas and Nebraska, no spot of earth has a particle of interest adscititious, present, and transient — though all must be generally known or 'history her ample

page rich with the spoils of time,' inadequately unrolls. I much fear that we are doomed to more of Malte Brun and of the crust of the earth. I will look, however.

"I am *rebuked* at finding that the great treatises on Will and Sin were not written at West Stockbridge, after all. It follows, first, that so much of our ride was what Rufus calls a *sell;* secondly, that the most arrogant memories will fail — be nonplussed — the characters, the imagery, as Locke says, fading out of this brass and marble; and thirdly, that all external beauty of scenery is mainly created and projected from within. How still and studious looked West Stockbridge — and now what a poor, little, half-starved saw-mill of a situation it is!

> 'The disenchanted earth lost half its lustre;
> The great magician's dead.'

I will be confident of nothing again — 'that's *Poz*,' as Miss Edgeworth's story — or somebody's, has it.

"Sallie, if it is cool in Lenox — if there is one cool spot; yea, if there is a place where by utmost effort of abstraction, you can think upon the frosty Caucasus; upon the leaves of aspen in motion; upon any mockery or mimicry of coolness and zephyrs, be glad. Our house glows like a furnace; the library seems like a stable of brazen, roasting bulls of Phalaris, tyrant of Agrigentum — of whom you read in De Quincey; and I woo sleep on three beds and a sofa in vain. All would be sick here — and I already am, or almost so.

"I hope the Astronomy engages you, and the St. Pierre. Botany and other natural history will soothe you, dear child; when the burning and suggestive words of mere literature sting as serpents.

"Good by dear *fille*.

"R. C."

To RUFUS CHOATE, JR.

"Boston, 19 July, 1854.

"DEAREST SON, — I was grieved when I got home to find what an inhospitable time you had of it. If you had hinted your purpose, Helen surely would have welcomed you. I could not, for I was melting beneath the Nantucket court-house. Next time let us know, that we may make your shortest vacation pleasant. Yesterday I ought to have been at Washington. What they have done I know not. If my friends carried an adjournment it is well. If not, the Library *fuit*, as the expressive perfect tense has it.

"I was very sorry that I could not stay longer in your poor little pleasant room, and seem to get more into your college intimate life. It glides away so fast, and is so delightful a portion of the whole term of life, that I should envy every day and hour. I prized mine. Yet now, as the poet says, it is my grief that I prized it no more. . . . . They will rejoice to see you at Lenox, where I hope to meet you. The cool weather of the 4th continues, and seems likely to, till men call on Caucasus to bury them and done with it.

To Rufus Choate, Jr.

"Boston, 24 Sept. [1854.]

"My dear dear Son, — You were very good to write me, and if I had not been rather harder at work than ever before, I should have written sooner. I have just finished an insurance trial of some ten or eleven days, very *scraggly* and ticklish — though a just claim — and won it, against a very strong charge of the judge. Then came another insurance cause where J. and I were for the office, def't, — and had the luck to get that too, in three or four hours. I had to snatch any moment to write a little address for Danvers. Altogether, therefore, I am utterly prostrated and unstrung. I would give a thousand dollars, if I could afford it, for an undisturbed rest of a week. The house is now in most perfect order. If dear mother, Sallie, Minnie, and you were here, it would be more perfect even.

To his Daughter Sarah.

"Sept. [1854.]

"My dear Sallie, — You were a special good girl to write me — pausing among so many grand spectacles, laughing girls, and moustached artists — if that is the French of it — and I should have written before if I had not been 'blowed.' I was 'overworked' for about twelve days, and up to yesterday morning, when I came out of the pestilential court-house to compose an address on *Knowledge*, for Danvers. The topic is new and the thoughts rise slowly and dubious. However I shall go through this also — as a thief through a horse-pond — in the simile of Lord Chancellor Thurlow.

"The autumn here now outshines itself. Such skies and such unblanched green leafiness, and occasional peach and plum, I have never seen. *Our* grapery is, as it were, Florentine and Mantuanical; but for mere eating I have preferred such as you buy of the common dealers in the article. Lately I have given no *dinners*. I have in fact for ten days not dined at home, but at the restaurant. To-morrow I hope to be at home. I never saw the house so clean, lovely, still, and homelike. They have washed everything — unless it is Cicero and Demosthenes, and it seems to me their very bronze seems sleek, fleshly, and cleansed. My books are all bound, and all up — and if mother and you were here, and Minnie, and I could rest, rest, rest, one day — one week — stock still — still as a '*statute*' — I should be too happy.

"I have just written your mother suggesting, 1st, whether she is ever coming home; 2d, when, if ever, she is coming; 3d, what money it will take to come, to bring honey, also you, and any 'Jew or Jewess.'

"Good-by, poor dear roe, hart, and pelican upon the mountains. I look at the picture in the dining-room daily, and wonder if you see sights so brilliant and light — then turn again to my baked apple, farina, or what not.

"Good-by, dear pet. I have had three nights to sleep in your room. All well at Helen's. Your *Vater*."

In September 1854 Mr. Choate delivered the address at the dedication of the Peabody Institute in South Danvers. This institution was founded by the munificence of Geo. Peabody, Esq. of London, and from the first was regarded with great interest by Mr. Choate, who watched with sincere pleasure the prosperity of the town where he commenced his professional life, and which conferred upon him his first honors. The year was otherwise filled with the ordinary labors of the law.

In the meantime his friend Mr. Eames had been appointed Minister-Resident at Caraccas.

To MR. EVERETT.

"Winthrop Place, Oct. 9, 1854.

"MY DEAR SIR, — I thank you for your kind invitation, and should have the truest pleasure in accepting it, but I am so much the victim of an urgent and ignominious *malice* — as Mr. S. Smith might say, — that I am cruelly forbidden all such opportunity.

"You are more than kind to the Danvers affair. And really, because one is not an Academician, is he not therefore to be indulged in his occasional platitudes and commonplaces?

"I am most truly
"Your servant and friend,
"RUFUS CHOATE."

To MRS. EAMES.

"Boston, 31st Oct. 1854.

"MY DEAR MRS. EAMES: — I have been imagining through all these divine days, how supreme must be the beauty on all things about you — and have sighed for the sight of all that scene in your company again. Meanwhile the leaf falls, and the last lark will send up his note of farewell; the school-ma'am will have recovered, and the school-house will be coming alive with the various hubbub of childhood, and the time draws on when you will go, perhaps to look back from a grander Nature to that plain New England solitude which you have found, and made, so delightful — to look back homesick and with affectionate sadness. . . . .

"I have seen Mr. Everett once, and had a most pleasant hour — not unmingled with pain. He looks despondingly outward; and I think his personal hopes are turning from politics and their bubble reputation. In his library, he seems to sit above all annoyance, at the centre of all reasonable felicities — a happy and great character, who may yet write his name forever on our history.

"I hope all your little, and thrice dear children are well, and give you no alarm. They seem well, happy, and of rare goodness and interest. If it should so happen that I can by any possibility see you and Mr.

Eames before you go — if go you must — I mean to do it — here — or at New Braintree, or in New York. . . . .

"Yours truly,
"R. CHOATE."

Notwithstanding his labors and periodical suffering from sick-headaches, Mr. Choate's general health was good. A strong constitution and vigorous frame enabled him to endure a vast amount of work without injury. But early in 1855 he met with an accident which confined him for several months to his house and for much of the time to his room. While at Dedham during the trial of a cause, he hit his knee against the corner of a table. This brought on an inflammation of the joint, which became complicated with other ailments, to which time only could bring relief.[1] During this period of seclusion, he was not cut off from the solace of his library, nor entirely unable to study. He never more fully enjoyed the society of his friends, giving himself up freely to those whom he loved. Mr. Everett particularly, used to visit him regularly two or three times a week, sometimes to bring a new book, sometimes to impart intelligence, not generally known, always to bring sunlight to the quiet library of the invalid. So much interested had both become in this unwonted familiarity, that on Mr. Choate's resuming his professional labors, Mr. Everett remarked to him, that, for his own sake, he could only wish one thing, namely, that he might hurt his knee again. To that friendly interest Mr. Choate alludes in one of the following letters, both bearing the same date.

TO HON. CHARLES EAMES.

"Boston, 29th June, 1855.

"DEAR MR. EAMES, — I doubt if you see a brighter sun or drink a balmier air than I do to-day, but I hope you are as well as the rosy-fingered June of New England could make you. Our summer, they say, is cool and backward; but whoso desires anything diviner than this morning may go farther and fare worse.

[1] As a result of the accident, he was obliged to submit to a slight surgical operation; but so sensitive was he to physical suffering, that even this made a considerable draft upon his nervous energies. He took ether, and afterwards remarked to a friend, that "it was very pleasant till the moment of utterly surrendering consciousness, — then death itself could not have been more awful."

"I thank you and Mrs. Eames for your kind remembrances. I have had a pretty sorry Spring of it; but it may be accepted for some years of indifferent health in the future. My physicians talk of change of life — renovation — rejuvenescence and what not — *hoc erat in votis* certainly — but who knows what shall be on the morrow? . . . .

"Your estate is gracious that keeps you out of hearing of our politics. Anything more low — obscene — feculent — the manifold oceanic heavings of history have not cast up. We shall come to the worship of onions — cats — and things vermiculate. 'Renown and grace are dead.' 'There's nothing serious in mortality.' If any wiser saw or instance, ancient or modern, occurred to me to express the enormous impossible inanity of American things, I should utter it. Bless your lot then, which gives you to volcanoes, earthquakes, feather-cinctured chiefs, and dusty sights of the tropics. I wish I was there with all my heart — that I do —

"After all, the Democratic chance is best. The whole South is Pierce's — I think — so is the *foreign* vote of the North. So will be Pennsylvania, I guess. . . . .

"I write to Mrs. Eames and send love to her and the babes.

"I wish you health, happiness, and treaties of immortal peace and fame. Most truly,

"Yours,

"R. CHOATE."

Hon. Charles Eames, &c. &c. &c., Caraccas.

To MRS. EAMES.

"Boston, 29th June, 1855.

"MY DEAR MRS. EAMES, — I have only just got abroad after a confinement of a matter of four months, and, with a hand still tremulous, though I flatter myself *legible* to the eye of a true friendship, I would send you my love and good wishes — chiefly and first congratulating you upon your safe arrival at that vortex of palms and earthquakes and sea-change. My — our — excellent Mr. Everett has reported with some frequency of you; and here come a tin case, and a little letter, more tellingly assuring me that your kindness is untravelled, and that you remember and wish to be remembered from the other side of this watery wilderness of separation. . . . .

"I have come out of town to-day about three miles to my daughter Bell's — to 'lie at large and sing the glories of the circling year' — as Thomson, or who was he, says — but more particularly and properly to write to you. She and her husband, not expecting me, have gone into Boston; and I am alone in a little library in a garden, held, as it were to the very breast of June. It is our summer at its best — roses — hens and chickens — green peas — honeysuckle — cocks crowing — a balmy west wind heavy with sweets. I wish, instead of the fierce and gigantic heats and growths and outlandish glory and beauty of Caraccas — whose end is to be burned — you, your children, and Mr. Eames were here — 'pastoral and pathetic' — virtuously and contentedly a smelling of this new-mown hay and walking with me — I, on two crutches — say two sticks — like the title of some beastly French novel — and talking over

the old times. You see Boston through the trees, and hear now and then, the whistle of invisible cars — otherwise, you might fancy yourself fifty thousand globes from cities or steam. These are the places and the moments for that discourse in which is so much more of our happiness than in actualities of duty, or even in hope.

"I look forward with longing to your coming back. Come unchanged all of you — except the children, who are to be bigger, darker, and even handsomer. . . . .

"I mean to go out and hear Mr. Everett on the 4th of July, at his native Dorchester. He will outdo himself, and I wish you and Mr. Eames could hear him. He has been inexpressibly kind to me in my confinement.

"I am slowly getting well — nothing remains of it all but a disabled knee, and that is slowly getting well too. . . . .

"God bless you all. Write by every wind that comes this way.

"Yours most truly,

"R. CHOATE."

CHAPTER IX.

1855–1858.

Love of the Union — Letter to the Whig Convention at Worcester, October, 1855 — Letter to Rev. Chandler Robbins — Lecture on the Early British Poets of this century, March, 1856 — Sir Walter Scott — Political Campaign of 1856 — Determines to support Mr. Buchanan — Letter to the Whigs of Maine — Address at Lowell — Letter to J. C. Walsh — Professional position — His Library — Lecture on The Eloquence of Revolutionary Periods, February, 1857 — Defence of Mrs. Dalton — Oration before the Boston Democratic Club, July 4th, 1858.

OF all feelings and sentiments none was stronger in Mr. Choate's mind than the love of country. But it was the whole country, THE ONE UNDIVIDED AND INDIVISIBLE NATION that absorbed his interest. Strongly as he was attached to Massachusetts, — and no son ever loved her with a more filial devotion, — he saw the greatness of the State in the prosperity of the Union. The narrower virtue was always absorbed in the grander. The large and strong patriotism of Washington and Madison and Hamilton and Webster, assumed a new intensity in his bosom. Every speech, every lecture, almost every public utterance of his during his later years, is full of this spirit. It was the side on which his sympathies touched those of the Democratic party, far from it as he ever had been, on so many points of national policy. "There are a good many things," he said in a speech at Worcester, in 1848, "that I like in the Democratic party. I like their nationality and their spirit of union, after all. I like the American feeling that pervades the masses." It was this feeling, not merely an intellectual conviction that the Union was necessary for safety and prosperity, but the nationality, the "country's majestic presence" which led him to oppose every political scheme which looked to less than the welfare of the whole. This feeling of patriotism grew stronger and stronger as he saw others apparently indifferent to it, or proposing measures which, by disregarding the interests and

feelings of large States, would necessarily tend, as he thought, to make them disloyal.

From the illness of the earlier part of 1855, Mr. Choate recovered sufficiently to enter with some eagerness into the political contests of the autumn. A new party, called, from their secret organization, "Know-nothings," and subsequently claiming the name of "American," had sprung up in several States, and in Massachusetts had made unexpected inroads into both the great parties which, before, had mainly divided the people. The Whigs, however, were not inclined to give up their organization. A convention was holden in Worcester early in October. Mr. Choate was one of the delegates from Boston, and not being able to attend, sent the following letter, the concluding sentence of which has passed into one of the watchwords of patriotism.

LETTER TO THE WHIG CONVENTION AT WORCESTER, MASS.

Boston, October 1, 1855.

"*Messrs. Peter Butler, Jr., and Bradley N. Cummings, Secretaries, &c., &c.*

"GENTLEMEN, — I discover that my engagements will not allow me to attend the convention to be holden at Worcester to-morrow, and I hope that it is not too late to fill the vacancy.

"I assure the Whigs of Boston that I should have regarded it as a duty and a privilege, if it had been practicable, to serve as one of their delegates. The business which the convention meets to do gives it extraordinary attraction as well as importance.

"Whether we are dead, as reported in the newspapers, or, if not, whether we shall fall upon our own swords and die even so, will be a debate possessing the interest of novelty at least. For one, I deny the death, and object to the suicide, and should be glad to witness the indignation and laughter with which such a question will be taken.

"If there shall be in that assembly any man, who, still a Whig, or having been such, now proposes to dissolve the party, let him be fully heard and courteously answered upon his reasons. Let him declare what party we shall join. Neutrality in any sharp civil dissension is cowardly, immoral, and disreputable. To what party, then, does he recommend us? I take it for granted it will not be to the Democratic; I take it for granted, also, not the American. To what other, then? To that of fusion certainly, to the Republican, — so called, I suppose, because it is organized upon a doctrine, and aims at ends, and appeals to feelings, on which one half of the Republic, by a geographical line, is irreconcilably opposed to the other. Even to that party.

"Let him be heard on his reasons for deserting our connection and joining such an one. To me, the answer to them all, to all such as I have heard, or can imagine, seems ready and decisive:

"Suppressing entirely all that natural indignation and sense of wounded pride and grief which might be permitted in view of such a proposition to Whigs who remember their history, — the names of the good and wise men of the living and dead, that have illustrated their connection, and served their country through it, — who remember their grand and large creed of Union, the Constitution, peace with honor, nationality, the development and culture of all sources of material growth, the education of the people, the industry of the people, — suppressing the emotions which Whigs, remembering this creed and the fruits it has borne, and may yet bear, might well feel towards the tempter and the temptation, the answer to all the arguments for going into fusion is at hand. It is useless, totally, for all the objects of the fusionist, assuming them to be honest and constitutional, — useless and prejudicial to those objects; and it is fraught, moreover, with great evil. What are the objects of the fusionist? To restore the violated compromise, or if he cannot effect that, to secure to the inhabitants, *bonâ fide* such, of the new territory the unforced choice of the domestic institutions which they prefer, a choice certain, in the circumstances of that country now or soon to close it against slavery forever. These, unless he courts a general disturbance and the revelry of civil "battle fields," are his object; and when he shall prove that fusion will send to Congress men who will labor with more zeal and more effect to these ends than such Whigs as Mr. Walley is, or as Mr. Rockwell was, — with a truer devotion to liberty — more obedient to the general sentiment and the specific exactions of the free States — with a better chance to touch the reason and heart, and win the coöperation of good men in all sections, — when he proves this, you may believe him. We know that the Whig representatives of Massachusetts in Congress do and must completely express the anti-slavery sentiment of Massachusetts, so far as they may be expressed under the Constitution. More than this we do not seek to express while there is yet a Constitution. Fusion is needless for the honest objects of the fusionist.

"But the evils of disbanding such a party as ours and substituting such a party as that! See what it fails to do. Here is a new and great political party, which is to govern, if it can, the State of Massachusetts, and to govern, if it can, the American Union. And what are its politics? It has none. Who knows them? Even on the topic of slavery, nobody knows, that I am aware of, what in certain it seeks to do, or how much or how little will content it. Loud, in general demonstration, it is silent or evasive on particular details.

"But outside of the topic of slavery, what are its politics? What, in the most general outline, is its creed of national or State policy? How does it interpret the Constitution? What is its theory of State rights? What is its foreign policy? By what measures; by what school of politicians; by what laws or what subjects; by what diplomacy; how, generally, does it propose to accomplish that good, and prevent that evil, and to provide for those wants for which States are formed and government established? Does it know? Does it tell? Are its representatives to go to Congress or the Legislature, to speak and vote on slavery only? If not, on what else, and on which side of it?

"A party, a great political party, without politics, is a novelty indeed.

Before the people of this country or State enable it to rule them, they will desire, I fancy, a little more information on these subjects. We all, or almost all, of the Free States who recognize the Constitution, think on slavery substantially alike. Before we make men Presidents and Governors and Senators and Judges and Diplomatists, we demand to see what else besides cheap, easy, unavoidable conformity to the sectional faith on that one topic, they can show for themselves.

"We elect them not to deliver written lectures to assenting audiences of ladies and gentlemen, — to kindle the inflammable, and exasperate the angry, — but to perform the duties of practical statesmanship in the most complicated and delicate political system, and the hardest to administer in the world. Let us, at least, then, know their politics. Kept totally in the dark about these, we do know that this party of fusion is, in the truest of all senses, and the worst of all senses, a geographical party. What argument against it can we add to this? Such a party, like war, is to be made when it is necessary. If it is not necessary, it is like war too, a tremendous and uncompensated evil. When it shall have become necessary, the eternal separation will have begun. That time, that end, is not yet. Let us not hasten, and not anticipate it, by so rash an innovation as this.

"Parties in this country heretofore have helped, not delayed, the slow and difficult growth of a consummated nationality. Our discussions have been sharp; the contest for honor and power, keen; the disputes about principles and measures, hot and prolonged. But it was in our country's majestic presence that we contended. It was from her hand that we solicited the prize. Whoever lost or won, we loved her better. Our allies were everywhere. There were no Alleghanies nor Mississippi rivers in our politics.

"Such was the felicity of our condition, that the very dissensions which rent small republics in twain, welded and compacted the vast fabric of our own. Does he who would substitute for this form of conducting our civil differences a geographical party, completely understand his own work? Does he consider how vast an educational instrumentality the party life and influence compose? Does he forget how the public opinion of a people is created, and that when created it determines their history? All party organization tends towards faction. This is its evil. But it is inseparable from free governments. To choose his political connection aright is the most delicate and difficult duty of the citizen. We have made our choice, and we abide by it. *We join ourselves to no party that does not carry the flag and keep step to the music of the Union.*

"I am, gentlemen, your fellow-citizen,

"RUFUS CHOATE."

During the election contest a large meeting of the Whigs of Boston and its vicinity was held in Faneuil Hall. It was addressed, among others, by Mr. Choate, in a strain of lofty and urgent patriotism such as has seldom been heard in a State election. His mind soared to heights from which it saw not the temporary interest of a State alone, nor the suc-

cess of this or that candidate for honorable office, but "the giant forms of empires" on their way to prosperity or ruin. How deeply his mind was moved is attested not only by the speech itself, but by his future action. The election was not favorable to the Whigs, nor yet to the Republicans. A letter written soon afterwards will incidentally show the means by which he solaced himself under defeat, where not the slightest personal interest was at stake, and what were still his hopes.

To REV. CHANDLER ROBBINS.

"Boston, November 12, 1855.

"DEAR SIR, — Absence from the city since Tuesday has prevented me from expressing my most grateful, my warmest thanks for your note. In the circumstances and feelings of the moment, it was soothing in the highest degree. On a more deliberate reading, and less on personal reasons, it has afforded even more gratification. We are the most fortunate of the nations, and owe the largest debt to humanity, with the perfect certainty of paying it, to one hundred cents on the dollar, with interest, and in the natural lifetime of the State, if we will only consent to live on, and obey the law of normal growth. And yet they would enlist what they call the moral sentiment, and incite us to immediate or certain national self-murder. I rejoice with great joy that such distempered ethics are disowned of a teacher of religion — a cultivated, humane, and just man; and that a patriotism, whose first care is for the Union — '*being*, before even *well-being*' — is regarded of such authority as high among the larger virtues.

"I may be permitted to say, that although the details and instruments are less satisfactory than could have been wished, the election is a real victory of intense American feeling, in which even you may have pleasure. I think it leaves only two great parties, both national to the cannon's mouth, in the field.

"Your delightful allusion to Mr. Webster excites even warmer emotions. I never think of him without recalling the fine, pathetic, unfinished sentence of Burke, in reference to Lord Keppel, — 'On that day I had a loss in Lord Keppel; but the public loss of him in this awful crisis ————— !'

"Yet it shall not, I think, be the generation which saw him, that shall witness the overthrow of the system to which he devoted himself with such desperate fidelity.

"I am, with the highest regard, your obliged humble servant,

"RUFUS CHOATE."

The following letter refers to a speech made at a dinner on the birth-day of Mr. Webster, where Mr. Everett presided: —

Lakenay eve

Dear Mr. Everett

It signifies nothing what I say in all this din of tempest of applause, but I know that nobody is more sincerely glad at your most signal success & I know that nobody has read you with more delight.

It has cost nothing an hour on the that I have so well as do this carefully, though I have it all read early in the day. Our mighty friend himself — from the Nature that he so loved come mended — say rather show clearer & nearer like these headlands in the summer moonlight landscape. I most

To Hon. Edward Everett.

"Saturday eve, January 19, 1856.

"Dear Mr. Everett, — It signifies nothing what I say in all this din and tempest of applause; but I believe that nobody is more sincerely glad at your most signal success, and I know that nobody has read you with more delight. It was only within an hour or two that I was so well as to do this carefully, though I heard it all read early in the day. Our mighty friend himself, and even the nature that he so loved, come mended — say rather, show clearer and nearer, like those headlands in the Homeric moonlight landscape. I most heartily thank you for presiding; it has won or confirmed many hearts; and I can never cease to regret that I could not have seen and heard what all felt to be an effort of extraordinary felicity. I am, very truly, your servant and friend,

"Rufus Choate."

Boston has long been noted for its popular lectures. Mr. Choate was frequently solicited to occupy an evening of the prescribed course; and notwithstanding the pressure of other engagements, often did so. He generally availed himself of some recent noteworthy event, civil or literary, which served to suggest the eloquent and wise discourse. On the 13th of March, 1856, he closed the series of lectures before the Mercantile Library Association, by an address on "Our Obligations to the British Poets of the first twenty years of this Century." The theme was a favorite one, and carried him back to college days and his earlier life. The lecture was announced, for brevity and convenience, as upon Samuel Rogers, whose death had occurred a few months before, although that poet was but one among many whose life and influence were cursorily noticed.

"I appreciate quite well," he said, "that to a great many of you this once resplendent circle is a little out of the fashion. Their task is done, you say; their song hath ceased. . . . You began to read fine writing, verse and prose, at a time when other names had gained, or were gaining, the large ear of the gentle public, . . . when Eugene Aram, or Ernest Maltravers, or Vivian Grey, or the Pickwick Papers, had begun to elbow Waverley, the Antiquary, and Ivanhoe, off the table; . . . after the 'last new poem' began to be more read than the matchless Fourth Canto of Childe Harold, . . . or the grand, melancholy, and immortal Platonisms and Miltonisms of the Excursion. So much the worse for yourselves!

"But if there be any in this assembly of the age of fifty or thereabout, you will hold a different theory. You will look back not without delight, to the time, say from 1812 to 1820, when this brilliant and still young school had fairly won the general voice, — to that time when exactly as taste, fancy, the emotions, were beginning to unfold and to pronounce themselves, and to give direction to your solitary and voluntary reading, these armed flights of genius came streaming from beyond the sea,—that time when as you came into your room from a college recitation in which you had been badly screwed in the eighth proposition on the Ellipse in Webber's Conic Sections, or in some passage of Tacitus in an edition with few notes and a corrupt text, and no translation, — you found Rob Roy, or The Astrologer, or The Antiquary, just republished and waiting your hands uncut; — when being asked if there were anything new, the bookseller would demurely and apologetically say, 'No, nothing very particular; there was just a fourth Canto of Childe Harold, or a little pamphlet edition of Manfred, or a thing of Rogers, the author of The Pleasures of Memory, called Human Life, or Lines of Coleridge on a view of the Alps before sunrise in the vale of Chamouny, or The Excursion, or Corinne or Germany of Madame de Staël, nothing else I believe.' You who can remember this will sigh and say,

> 'T was a light that ne'er can shine again
> On life's dull stream.'

So might you say, whatever their worth intrinsically; for to you,—to us,—read in the age of admiration,— of the first pulse of the emotions beating unwontedly, — associated with college contentions and friendships; the walk on the gleaming, Rhine-like, riverside; the seat of rock and moss under the pine singing of Theocritus; with all fair ideals revelling in the soul before

> 'The trumpet call of truth
> Pealed on the idle dreams of youth,'—

to you they had a spell beyond their value and a place in your culture that nothing can share."

Of them all — that constellation of brilliant writers — no one interested Mr. Choate so much as Sir Walter Scott. The whole lecture is, of necessity, somewhat desultory; but one

cannot well pass by the general tribute to Scott, and the brief defence of him from the criticism of Mr. Carlyle: —

"And now, of all that bright circle, whom shall we say we love best? Each has his choice. Our own moods have them. But do I deceive myself in supposing, that if the collective voice of all who speak the language of England could be gathered by ballot, it would award the laurel by about a two thirds majority to Walter Scott, — to the prose romance of Scott? Of him, no one knows where to begin or end. Consider first, to how many minds, to how many moods of mind, these pages give the pleasure for which books of elegant literature are written. To enjoy them, you need be in no specific and induced state; you need not be gloomy, hating, pursued by a fury, a sorrow, a remorse, or chasing a pale visionary phantom of love and hope, as you must to read Byron; you need not be smitten with a turn to mysticism and the transcendental and the Platonic, as you must be to relish a great deal of Wordsworth; you need not feel any special passion, nor acknowledge any very pronounced vocation, for reforming school-houses and alms-houses, for shortening the hours and raising the wages of weavers' labor, for pulling down the aristocracy, the offices and Court of Chancery, and reconstructing society in general, as you must to enjoy very much even of our excellent Dickens. You need only to be a man or woman, with a love of reading and snatching your chances in the interstitial spaces of life's idle business to indulge it, and that is all. And why so? Because that genius was so healthful as well as so large and strong, because that humanity was so comprehensive, because that capacity was so universal, — that survey of life so wide and thorough, — that knowledge of man in his general nature as well as in his particular, so deep and true! Therefore it is, he gives you what Homer gives, what Shakspeare gives, — not crotchets, not deformities, not abnormal and exceptional things or states, not intensities, extravagancies, and spasms; but he gives you an apocalypse of life, from its sublimest moments to its minutest manners, such as never was communicated but by two other human imaginations. In that panorama of course, as in the mighty, complicated, and many-colored original of nature and history, there are all sorts of things, the jester, the humorist,

the apparition from the dead, even as there is the clown gravedigger in Hamlet, the fool in Lear, the drunken porter in Macbeth, Thersites in the Iliad; but they are in proportion and place. The final aggregate of impression is true. You have not read that particular chapter in the great Book of Life before; but you recognize it in a moment; you learn from it. These men and women you had not known by name; you see them tried by imaginary and romantic circumstances certainly, but they reveal and illustrate and glorify the genuine humanity which you know to be such at its best; courage, honor, love, truth, principle, duty; tried on high places and on low; in the hour of battle; in the slow approach of death; in bereavement; in joy; in all that varied eventful ebb and flow that makes life.

"This is the reason,—one reason,—why so many more, in so many more moods, love *him*, than any other one in that splendid companionship. True it is no doubt, that even above the sound of a universal and instant popularity, there is a charm beyond. There is a twofold charm beyond. They are, first, the prose romances of a poet; not the downright prose of Smollett, of Defoe, and of Fielding, nor the pathetic prose of Richardson, nor the brilliant and elegant prose of Edgeworth, or Hope in Anastasius. They sparkle and burn with that element, impossible to counterfeit, impossible to destroy, — a genuine poetry. Sometimes the whole novel is a poem. Who does not feel this in every page of the Bride of Lammermoor? The story is simple, its incidents are few; yet how like a tragedy, brooded over by Destiny, it sweeps on, from that disturbed funeral of old Lord Ravenswood,—the procession interrupted —the father on the bier—the mourning child by his side, outraged under the very arches of the house of death—that deep paleness of the cheek of the young son revealing how the agony of his sorrow masters for a space the vehemence of his burning resentment,—that awful oath of revenge against the house of his future affianced bride;—how it sweeps on, from this burial service presided over by doom, through those unutterable agonies of two hearts, to the successive and appalling death scenes; how every incident and appendage swells the dark and swift tide of destiny; how highly wrought—how vivid—how spontaneous in metaphor, is every scene and dialogue; to what fer-

vor and exaltation of mind — to what keen susceptibility of emotion — to how towering and perturbed a mood of imagination, all the *dramatis personæ* seem elevated! In the same sense in which the Œdipus or the Agamemnon is a tragic poem, so is this; and the glorious music of the opera, is scarcely passionate and mournful enough to relieve the over-burthened and over-wrought heart and imagination of the reader.

"And when the whole romance is not a poem in its nature, in model, as Waverley, the Antiquary and the Astrologer and Kenilworth and Ivanhoe are not, how does the element of poetry yet blend and revel in it! In what other prose romances of any literature, in how many romances in verse, do you find pictures of scenery so bold, just, and free, — such judgment in choosing, and enthusiasm in feeling, and energy in sketching, an unequalled landscape, identified by its own incommunicable beauty and grandeur? Where else but in the finest of tragedies do you find the persons of the scene brought together and interacting in speech and figure so full of life, — the life of a real presence, — the life flashing from the eye, trembling in the tones of voice, shaking the strong man's frame, speaking in the eloquent face? Who has sketched the single combat, the shock of ancient and modern battle, the assault, the repulse, the final storm, like him? Recall that contest with night, ocean, and tempest, in which Sir Arthur and Isabella are rescued in the Antiquary; and contrast that other also in the Antiquary, the fisherman's funeral, — the bier of the young man drowned — the passionate, natural, sobs of the mother — the sullen and fierce grief of the father, shaking in its energy the bed beneath whose canopy he had hidden his face — the old grandmother, linking by a strange tie, the guilt, the punishment of the proud House of Glenallan, to this agony of humble life. Over what other prose volumes do you find strewn broadcast with the prodigality of a happy nature, so much simile and metaphor, — the vocabulary, — the pearls, gems, and coral of the language, — and the thoughts of poetry? What would you think to come, in Fielding or Smollett or Richardson or Defoe, on such a passage as this: 'It is my Leicester! It is my noble Earl! It is my Dudley! Every stroke of his horse's hoof sounds like a note of lordly music!' Or this: 'Major Bridgenorth glided

along this formal society with noiseless step, and a composed severity of manner resembling their own. He paused before each in succession, and apparently communicated, as he passed, the transactions of the evening, and the circumstances under which the heir of Martindale Castle was now a guest of Moultrassie Hall. Each seemed to stir at his brief detail, like a range of statues in an enchanted hall, starting into something like life as a talisman is applied to them successively.'

"I know, too, what interest and what value their historical element gives to these fictions. Like all this class of fiction in all literature, their theme is domestic life, and nature under the aspects of domestic life. But his is domestic life on which there streams the mighty influence of a great historical conjuncture. That interest indescribable which attaches ever to a people and a time over which dark care, an urgent peril, a vast apprehension is brooding; a crisis of war, of revolution, of revolt, — that interest is spread on all things, the minutest incident, — the humblest sufferer, — the conversations of boors on the road or at the ale-house; everything little or high is illustrative and representative. The pulses of a sublime national movement beat through the universal human nature of the drama. The great tides of historical and public existence flow there and ebb, and all things rise and fall on those resistless forces. The light of the castle stormed and on fire streams in through the open door of some smallest cottager; and lovers are kept asunder by a war of succession to thrones.

"To one of his detractors, let me say one word.

"It has pleased Mr. Thomas Carlyle to record of these novels, — 'The sick heart will find no healing here, the darkly struggling heart no guidance, the heroic that is in all men no divine, awakening voice.' These be sonorous words assuredly. In one sense I am afraid that is true of any and all mere romantic literature. As disparagement of Scott it is a simple absurdity of injustice. In any adequate sense of these expressions, Homer and Shakspeare must answer, 'These are not mine to give.' To heal that sickness, to pour that light on that gloom, to awaken that sleep of greatness in the soul in the highest sense, far other provision is demanded, and is given. In the old, old time, — Hebrew, Pagan, — some found it in the very voice of God; some in the visits of

the angel; some in a pilgrimage to the beautiful Jerusalem; some in the message of the Prophet, till that succession had its close; some sought it rather than found it, like Socrates, like Plato, like Cicero, like Cato, in the thoughts of their own and other mighty minds turned to the direct search of truth, in the philosophy of speculation, in the philosophy of duty, in the practice of public life. To us only, and at last, is given the true light. For us only is the great Physician provided. In our ears, in theirs whose testimony we assuredly believe, the divine awakening voice has been articulately and first spoken. In this sense, what he says would be true of Homer, Shakspeare, Dante, Milton; but no more true of Scott than of Goethe or Schiller. Neither is, or gives, religion to the soul, if it is that of which he speaks. But if this is not his meaning, — and I suppose it is not, — if he means to say that by the same general treatment, by the same form of suffering humanity, by which Homer, Virgil, Dante, Shakspeare heal the sick heart, give light to the darkened eye, and guidance to blundering feet, and kindle the heroic in man to life, — if he means to say that as they have done it he has not in kind, in supreme degree, — let the millions whose hours of unrest, anguish, and fear he has charmed away, to the darkness of whose desponding he has given light, to whose sentiments of honor, duty, courage, truth, manliness, he has given help — let *them* gather round the Capitol and answer for themselves and him. I am afraid that that Delphic and glorious Madame de Staël, knew sickness of the heart in a sense and with a depth too true only; and she had, with other consolation, the fisherman's funeral in the Antiquary read to her on her deathbed; as Charles Fox had the kindred but unequal sketches of Crabbe's Village read on his.

"And so of this complaint, that the heroic in man finds here no divine, awakening voice. If by this heroic in man he means what — assuming religious traits out of the question — we who speak the tongue of England and hold the ethics of Plato, of Cicero, of Jeremy Taylor and Edmund Burke, should understand, — religion now out of the question, — that sense of obligation, pursuing us ever, omnipresent like the Deity, ever proclaiming that the duties of life are more than life, — that principle of honor that feels a stain like a

wound, — that courage that fears God and knows no other fear, that dares do all that may become a man, — truth on the lips and in the inward parts, — that love of our own native land, comprehensive and full love, the absence of which makes even the superb art-world of Goethe dreamy and epicurean, — manliness, equal to all offices of war or peace, above jealousy, above injustice, — if this is the heroic, and if by the divine awakening voice he meant that artistic and literary culture fitted to develop and train this quality, — that voice is Scott's.

"I will not compare him with Carlyle's Goethe or even Schiller, or any other idol on the Olympus of his worship; that were flippant and indecorous, nor within my competence. But who and where, in any literature, in any walk of genius, has sketched a character, imagined a situation, conceived an austerity of glorified suffering, better adapted to awaken all of the heroic in man or woman, that it is fit to awaken, than Rebecca in act to leap from the dizzy verge of the parapet of the Castle to escape the Templar, or awaiting the bitterness of death in the list of Templestowe and rejecting the championship of her admirer? — or than Jeanie Deans refusing an untruth to save her innocent sister's life and then walking to London to plead for her before the Queen, — and so pleading? — than Macbriar in that group of Covenanters in Old Mortality in presence of the Privy Council, confessing for himself, whom terror, whom torture, could not move to the betrayal of another; accepting sentence of death, after anguish unimaginable, his face radiant with joy; a trial of manhood and trust, a sublimity of trial, a manifestation of the heroic to which the self-sacrifice of a Leonidas and his three hundred was but a wild and glad revelry, — a march to the 'Dorian music of flutes and soft recorders,' — a crowning, after the holiday contention of the games, with all of glory a Greek could covet or conceive.

"I rode in the August of 1850, with a friend and kinsman, now dead, from Abbotsford to Dryburgh, from the home to the grave of Walter Scott. We asked the driver if he knew on which side of the Tweed the funeral procession, a mile in length, went down. He did not know. But what signified it? Our way lay along its south bank. On our right, rose

the three peaks of the cloven summit of Eildon; fair Melrose, in its gray ruin, immortal as his song, the Tweed, whose murmur came in on his ear when he was dying, were on our left; the Scotland of the Lay of the Last Minstrel, bathed in the mild harvest sunlight, was around us; and when we came within that wide inclosure at the Abbey of Dryburgh, in which they have laid him down, we could then feel how truly that deep sob, which is said to have burst in that moment from a thousand lips, was but predictive and symbolical of the mourning of mute Nature for her worshipper; of Scotland for the crown of her glory; of the millions of long generations for their companion and their benefactor."

The year 1856 was a year of political excitement. The Democratic party nominated Mr. Buchanan for the Presidency, and the Republicans, Col. Fremont; still another party, composed of those who called themselves "Americans," had nominated Mr. Fillmore. Mr. Choate did not entirely sympathize with either of these parties, and for some time was in doubt what position to take. To be neutral he thought unbecoming, when great interests seemed to be at stake, nor was he willing to throw away his influence where there was no chance of success, especially where his convictions did not impel him to act. He meditated long and anxiously, taking counsel of none, because he determined to act independently. A separation from old friends, even temporarily, gave him real sorrow, yet to follow any party founded on geographical principles, or which would divide the States by a geographical line, seemed to him, not only repugnant to the counsels of Washington and the fathers of the Republic, but so unstatesmanlike and dangerous that he could not regard it with favor. A letter to Mr. Evarts, of New York, who had recently made a speech in favor of the Republican party, indicates this feeling.

To Wm. M. Evarts, Esq.

"Dear Mr. Evarts,— I thank you for your courtesy in the transmitting of the speech. I had read it before, and for that matter, there has been nothing else in my papers since, except the proceedings in the matter of poor Hoffman. Both — the political and the eulogistic — are excellent. To say that I see my way clear to *act* with you were premature. Blessings are bought with a price. We may pay too high for good

sentiments and desirable policy. I hate some of your associates and recognize no necessity at all for a Presidential campaign on platforms less broad than the whole *area*. . . . Most truly yours,

"R. CHOATE."

The first distinct intimation that he gave of his probable political course, was in a note to Mr. Everett. It was little more than a conjecture, however, hardly a declaration of a fixed purpose; yet he was not timid in declaring his opinions when fully formed and the occasion demanded it, and in his letter to the Whigs of Maine, dated the 9th of August, he unhesitatingly affirmed his position. This letter was in answer to an urgent request from the Whig State Committee to address the people at a mass meeting in Waterville.

To E. W. FARLEY and other gentlemen of the Maine Whig State Central Committee.

"Boston, Aug. 9, 1856.

"GENTLEMEN, — Upon my return last evening, after a short absence from the city, I found your letter of the 30th ult., inviting me to take part in the proceedings of the Whigs of Maine, assembled in mass meeting.

"I appreciate most highly the honor and kindness of this invitation, and should have had true pleasure in accepting it. The Whigs of Maine composed at all times so important a division of the great national party, which, under that name, with or without official power, as a responsible administration, or as only an organized opinion, has done so much for our country, — our whole country, — and your responsibilities at this moment are so vast and peculiar, that I acknowledge an anxiety to see — not wait to hear — with what noble bearing you meet the demands of the time. If the tried legions, to whom it is committed to guard the frontier of the Union, falter now, who, anywhere, can be trusted?

"My engagements, however, and the necessity or expediency of abstaining from all speech requiring much effort, will prevent my being with you. And yet, invited to share in your counsels, and grateful for such distinction, I cannot wholly decline to declare my own opinions on one of the duties of the Whigs, in what you well describe as 'the present crisis in the political affairs of the country.' I cannot now, and need not, pause to elaborate or defend them. What I think, and what I have decided to do, permit me in the briefest and plainest expression to tell you.

"The first duty, then, of Whigs, not merely as patriots and as citizens, — loving, with a large and equal love our whole native land, — but as Whigs, and because we are Whigs, is to unite with some organization of our countrymen, to defeat and dissolve the new geographical party, calling itself Republican. This is our first duty. It would more exactly express my opinion to say that at this moment it is our only duty. Certainly, at least, it comprehends and suspends all others; and in my judgment, the question for each and every one of us is, not whether this

candidate or that candidate would be our first choice, — not whether there is some good talk in the worst platform, and some bad talk in the best platform, — not whether this man's ambition, or that man's servility or boldness or fanaticism or violence, is responsible for putting the wild waters in this uproar; — but just this, — by what vote can I do most to prevent the madness of the times from working its maddest act, — the very ecstasy of its madness, — the permanent formation and the actual present triumph of a party which knows one half of America only to hate and dread it, — from whose unconsecrated and revolutionary banner fifteen stars are erased or have fallen, — in whose national anthem the old and endeared airs of the Eutaw Springs and the King's Mountain and Yorktown, and those, later, of New Orleans and Buena Vista and Chapultepec, breathe no more. To this duty, to this question, all others seem to me to stand for the present postponed and secondary.

"And why? Because, according to our creed, it is only the united America which can peacefully, gradually, safely, improve, lift up, and bless, with all social and personal and civil blessings, all the races and all the conditions which compose our vast and various family, — it is such an America, only, whose arm can guard our flag, develop our resources, extend our trade, and fill the measure of our glory; and because, according to our convictions, the triumph of such a party puts the Union in danger. That is my reason. And for you and for me and for all of us, in whose regards the Union possesses such a value, and to whose fears it seems menaced by such a danger, it is reason enough. Believing the noble Ship of State to be within a half cable's length of a lee shore of rock, in a gale of wind, our first business is to put her about, and crowd her off into the deep, open sea. That done, we can regulate the stowage of her lower tier of powder, and select her cruising ground, and bring her officers to court-martial at our leisure.

"If there are any in Maine — and among the Whigs of Maine I hope there is not one — but if there are any, in whose hearts strong passions, vaulting ambition, jealousy of men or sections, unreasoning and impatient philanthropy, or whatever else have turned to hate or coldness the fraternal blood and quenched the spirit of national life at its source, — with whom the union of slave States and free States under the actual Constitution is a curse, a hindrance, a reproach, — with those of course our view of our duty and the reason of it, are a stumbling block and foolishness. To such you can have nothing to say, and from such you can have nothing to hope. But if there are those again who love the Union as we love it, and prize it as we prize it, — who regard it as we do, not merely as a vast instrumentality for the protection of our commerce and navigation, and for achieving power, eminence and name among the sovereigns of the earth, but as a means of improving the material lot, and elevating the moral and mental nature and insuring the personal happiness of the millions of many distant generations, — if there are those who think thus justly of it, and yet hug the fatal delusion that, because it is good, it is necessarily immortal, that it will thrive without care, that anything created by a man's will is above or stronger than his will, that because the reason and virtues of our age of reason and virtue could build it, the passions and stimulations of a day of frenzy cannot pull it down; — if such there

are among you, to them address yourselves with all the earnestness and all the eloquence of men who feel that some greater interest is at stake, and some mightier cause in hearing, than ever yet tongue has pleaded or trumpet proclaimed. If such minds and hearts are reached, all is safe. But how specious and how manifold are the sophisms by which they are courted!

"They hear and they read much ridicule of those who fear that a geographical party does endanger the Union. But can they forget that our greatest, wisest, and most hopeful statesmen have always felt, and have all, in one form or another, left on record their own fear of such a party? The judgments of Washington, Madison, Clay, Webster, on the dangers of the American Union — are they worth nothing to a conscientious love of it? What they dreaded as a remote and improbable contingency — that against which they cautioned, as they thought, distant generations — that which they were so happy as to die without seeing — is upon us. And yet some men would have us go on laughing and singing, like the traveller in the satire, with his pockets empty, at a present peril, the mere apprehension of which, as a distant and bare possibility, could sadden the heart of the Father of his Country, and dictate the grave and grand warning of the Farewell Address.

"They hear men say that such a party *ought not* to endanger the Union; that, although it happened to be formed within one geographical section, and confined exclusively to it, — although its end and aim is to rally that section against the other on a question of morals, policy, and feeling, on which the two differ eternally and unappeasably, — although, from the nature of its origin and objects, no man in the section outside can possibly join it, or accept office under it, without infamy at home, — although, therefore, it is a stupendous organization, practically to take power and honor, and a full share of the government, from our whole family of States, and bestow them, substantially, all upon the antagonist family, — although the doctrines of human rights, which it gathers out of the Declaration of Independence — that passionate and eloquent manifesto of a revolutionary war — and adopts as its fundamental ideas, announce to any Southern apprehension a crusade of the government against slavery, far without and beyond Kansas, — although the spirit and tendency of its electioneering appeals, as a whole, in prose and verse, the leading articles of its papers, and the speeches of its orators, are to excite contempt and hate, or fear, of one entire geographical section, and hate or dread or contempt is the natural impression it all leaves on the Northern mind and heart; yet that nobody anywhere ought to be angry, or ought to be frightened; that the majority must govern, and that the North is a majority; that it is ten to one nothing will happen; that, if worst comes to worst, the South knows it is wholly to blame, and needs the Union more than we do, and will be quiet accordingly.

"But do they who hold this language forget that the question is not what ought to endanger the Union, but what will do it? Is it man as he ought to be, or man as he is, that we must live with or live alone? In appreciating the influences which may disturb a political system, and especially one like ours, do you make no allowance for passions, for pride, for infirmity, for the burning sense of even imaginary wrong? Do you

assume that all men, or all masses of men in all sections, uniformly obey reason; and uniformly wisely see and calmly seek their true interests? Where on earth is such a fool's Paradise as that to be found? Conceding to the people of the fifteen States the ordinary and average human nature, its good and its evil, its weakness and its strength, I, for one, dare not say that the triumph of such a party ought not to be expected naturally and probably to disunite the States. With my undoubting convictions, I know that it would be folly and immorality in men to wish it. Certainly there are in all sections and in all States those who love the Union, under the actual Constitution, as Washington did, as Jay, Hamilton, and Madison did; as Jackson, as Clay, as Webster loved it. Such even is the hereditary and the habitual sentiment of the general American heart. But he has read life and books to little purpose who has not learned that 'bosom friendships' may be 'to resentment soured,' and that no hatred is so keen, deep, and precious as that.

'And to be wroth with one we love
Will work like madness in the brain.'

He has read the book of our history to still less purpose, who has not learned that the friendships of these States, sisters but rivals, sovereigns each, with a public life, and a body of interests, and sources of honor and shame of its own and within itself, distributed into two great opposing groups, are of all human ties most exposed to such rupture and such transformation.

"I have not time in these hasty lines, and there is no need, to speculate on the details of the modes in which the triumph of this party would do its work of evil. Its mere struggle to obtain the government, as that struggle is conducted, is mischievous to an extent incalculable. That thousands of the good men who have joined it deplore this is certain, but that does not mend the matter. I appeal to the conscience and honor of my country that if it were the aim of a great party, by every species of access to the popular mind, — by eloquence, by argument, by taunt, by sarcasm, by recrimination, by appeals to pride, shame, and natural right, — to prepare the nation for a struggle with Spain or England or Austria, it could not do its business more thoroughly. Many persons, many speakers, — many, very many, set a higher and wiser example; but the work is doing.

"If it accomplishes its objects and gives the government to the North, I turn my eyes from the consequences. To the fifteen States of the South that government will appear an alien government. It will appear worse. It will appear a hostile government. It will represent to their eye a vast region of States organized upon anti-slavery, flushed by triumph, cheered onward by the voices of the pulpit, tribune, and press; its mission to inaugurate freedom and put down the oligarchy; its constitution the glittering and sounding generalities of natural right which make up the Declaration of Independence. And then and thus is the beginning of the end.

"If a necessity could be made out for such a party we might submit to it as to other unavoidable evil, and other certain danger. But where do they find that? Where do they pretend to find it? Is it to keep slavery

out of the territories? There is not one but Kansas in which slavery is possible. No man fears, no man hopes, for slavery in Utah, New Mexico, Washington, or Minnesota. A national party to give them freedom is about as needful and about as feasible as a national party to keep Maine for freedom. And Kansas! Let that abused and profaned soil have calm within its borders; deliver it over to the natural law of peaceful and spontaneous immigration; take off the ruffian hands; strike down the rifle and the bowie-knife; guard its strenuous infancy and youth till it comes of age to choose for itself, — and it will choose freedom for itself, and it will have forever what it chooses.

"When this policy, so easy, simple, and just, is tried and fails, it will be time enough to resort to revolution. It is in part because the duty of protection to the local settler was not performed, that the Democratic party has already by the action of its great representative Convention resolved to put out of office its own administration. That lesson will not and must not be lost on anybody. The country demands that Congress, before it adjourns, give that territory peace. If it do, time will inevitably give it freedom.

"I have hastily and imperfectly expressed my opinion through the unsatisfactory forms of a letter, as to the immediate duty of Whigs. We are to do what we can to defeat and disband the geographical party. But by what specific action we can most effectually contribute to such a result is a question of more difficulty. It seems now to be settled that we present no candidate of our own. If we vote at all, then, we vote for the nominees of the American or the nominees of the Democratic party. As between them I shall not venture to counsel the Whigs of Maine, but I deem it due to frankness and honor to say, that while I entertain a high appreciation of the character and ability of Mr. Fillmore, I do not sympathize in any degree with the objects and creed of the particular party that nominated him, and do not approve of their organization and their tactics. Practically too, the contest in my judgment is between Mr. Buchanan and Col. Fremont. In these circumstances, I vote for Mr. Buchanan. He has large experience in public affairs; his commanding capacity is universally acknowledged; his life is without a stain. I am constrained to add that he seems at this moment, by the concurrence of circumstances, more completely than any other, to represent that sentiment of nationality, — tolerant, warm, and comprehensive, — without which, without increase of which, America is no longer America; and to possess the power and I trust the disposition to restore and keep that peace, within our borders, and without, for which our hearts all yearn, which all our interests demand, through which and by which alone we may hope to grow to the true greatness of nations.

"Very respectfully,

"Your fellow-citizen,

"RUFUS CHOATE."

This letter was no sooner published than solicitations came, almost without number, to take part in the political campaign. Committees from New York and Philadelphia urged him with

an importunity which it was very difficult to resist. He determined at last to make one speech, and but one. He chose the place, Lowell, — an important manufacturing city in Middlesex County, the county which holds Bunker Hill and Lexington. An immense crowd assembled to hear him on the 28th of October. It was an unwonted and hard thing for him to leave, even for a time, those with whom he had always been politically associated, and join those whom he had always opposed. If ever one were controlled by a high sense of public duty, he certainly was in that difficult step. He sought neither honor, nor office, nor emolument; nothing but the greater safety and welfare of the country could repay him. There was a tone of deprecation in some parts of the speech which marked his deep feeling. "Certainly," he said, "somewhat there is in the position of all of us a little trying. Ties of years which knit some of us together are broken. Cold regards are turned on us, and bitter language, and slander cruel as the grave, is ours.

> 'I cannot but remember such things were,
> That were most precious to me.'

You have decided, Fellow-Whigs, that you can best contribute to the grand end we all seek, by a vote for Mr. Fillmore. I, a Whig all my life, a Whig in all things, and as regards all other names, a Whig to-day, have thought I could discharge my duty most effectually by voting for Mr. Buchanan and Mr. Breckinridge; and I shall do it. The justice I am but too happy in rendering you, will you deny to me? In doing this I neither join the Democratic party, nor retract any opinion on the details of its policy, nor acquit it of its share of blame in bringing on the agitations of the hour. . . . . There never was an election contest that, in denouncing the particulars of its policy, I did not admit that the characteristic of the Democratic party was this, that it had burned ever with the great master-passion this hour demands, — a youthful, vehement, exultant, and progressive nationality. Through some errors, into some perils, it has been led by it; it may be so again; we may require to temper and restrain it; but to-day we need it all, we need it all! the hopes, the boasts, the pride, the universal tolerance, the gay and festive defiance of foreign dictation, the flag, the music, all the emotions, all the

traits, all the energies, that have won their victories of war, and their miracles of national advancement, — the country needs them all now, to win a victory of peace. That done, I will pass again, happy and content, into that minority of conservatism in which I have passed my life."

The meeting had assembled in the largest hall in the city, which was densely packed. It was estimated that from four to five thousand persons were present. The committee of arrangements, with the orator, could with great difficulty force their way to the platform. The meeting was soon organized, and the president had hardly begun to make a preliminary address, when a dull, heavy sound like a distant cannon was heard, and the floor evidently yielded. A general fright seemed to pervade the audience, which was assuaged only by assurances of safety, and that an examination of the supports of the building should at once be made by an experienced architect. The agitation having subsided, Mr. Choate rose and was hailed with a storm of applause, such as even he had rarely heard before. He proceeded for nearly half an hour, when again that ominous sound was heard, and the floor was felt sinking as before. Mr. Choate paused, and the fear of the crowd was partially quieted a second time by an assurance of an immediate inspection of the building, and if it should not be found safe, an adjournment to some other place. The architect who first went to examine the supports had not come back. General Butler, who was presiding, said that he would go and ascertain the condition of things, and return and report. He went, and to his horror found that several of the rods by which the floor was sustained had drawn through the timbers, that the ceiling below was opening, and that the slightest movement or demonstration of applause would be likely to bring the floor, the roof, and probably the walls, to the ground, with a destruction of life too awful to think of. Comprehending all the peril, he forced his way in again through the crowd, till he reached the platform, and then calmly addressing the audience told them that though there might be no *immediate* danger, as they had been interrupted twice and some were timid, it would be best quietly and without haste to leave the hall. 'This is the place of greatest danger,' he said, 'and I shall stand here till all have gone out.' The hall was at once

cleared, those on the platform going last; and it is said that as they were walking out the floor again sprung for an inch or two. Not till all were safe, did they understand the imminent peril in which they had been; how near to a catastrophe, to which that of the Pemberton Mill might have been a mercy. The crowd soon forgot the danger, and were so eager for the continuance of the speech, that Mr. Choate, who had retired to the hotel, and was suffering from an incipient illness, addressed the assembled masses for some time from a platform hastily erected in front of one of the windows.

It was natural that his determination to vote for Mr. Buchanan should be regarded with sorrow by those with whom he had always been associated, and, perhaps not very surprising, that he should have received anonymous letters filled with abuse and threats, some of them frightful in their malignity. After the election, it was intimated to him, that any honorable position under the government, that he might desire, would be at his disposal. But he was determined to receive nothing, nor allow the remotest suspicion to attach to his motives. Some doubted the necessity or the wisdom of his course; but none who knew him distrusted the depth and sincerity of his convictions, or the immaculate purity of his patriotism. Misjudgment and censure he expected to receive, but charges of mercenary or malignant motives he could not overlook. Such having been brought to his notice as made in Maryland, he replied to his informant by the following letter:

To John Carroll Walsh, Harford Co., Maryland.

"Boston, Sept. 15, 1856.

"Dear Sir, — Your letter informing me that Mr. Davis asserted in a public speech that the secret of my opposition to Mr. Fillmore was disappointment, created by not receiving from him an office which I sought and desired, was received a little out of time. I thank you for affording me an opportunity to answer, at the first moment of hearing it, a statement so groundless and so unjust. There is not a particle of truth in it, nor is there anything to color or to suggest *his* informant's falsehood. I authorize and request you, if you attach any importance to the matter, to give it the most absolute and comprehensive denial. I never sought an office from Mr. Fillmore directly or indirectly, and never requested or authorized any other person to do so for me, and never believed for a moment, or suspected, and do not now believe or suspect, that any one has done so, or has even mentioned my name to him in connection with an office. Mr. Fillmore never had a place in his gift

which I desired, or which I could have afforded to accept, even if I had thought myself competent to fill it, or for which I could, under any circumstances, have exchanged the indispensable labor of my profession. Personal complaint of Mr. Fillmore I have not the slightest reason to make; and he who thinks it worth his while to conjecture why I shall not vote for him, must accept from me, or fabricate for himself, a different explanation.

"With great regard, your servant and fellow-citizen,

"RUFUS CHOATE."

The key to Mr. Choate's public life, especially his later life, may be found in two grand motives: the first, his strong American feeling; the second, his love of the Union. The former led him to sustain the country, its institutions, and public policy, as distinguished from those of the Old World. The latter made him as careful of the rights, as respectful to the feelings, the sentiments, the habits, of the South as of the North, of the West as of the East. He felt that sufficient time had not yet elapsed thoroughly to prove the power and virtues of the Republic, or suggest an adequate remedy for its defects. He felt that to perpetuate a government strong but liberal — considerate of every interest and oppressive of none — requires great breadth and intensity of patriotism, much forbearance of sectional ignorance and prejudice, a conciliatory and just spirit, a large prudence, and a liberal regard to wants and interests as diverse as the races which march under the one national banner, and profess allegiance to a common government, or the productions and pursuits of our various climate and soil. The State he loved, as one would love a father. The faults of the State he would not make the ground of party exultation, or parade them for universal, indiscriminate, and barren censure, but would rather shun, and if possible cure, or at least cover with a filial sorrow, — *dictitans, domestica mala tristitia operienda.* He shared largely the fears of the wisest and most far-sighted statesmen, but still trusted that under a magnanimous public policy, time would more completely consolidate the races and States, evils would be gradually corrected, and the spirit of nationality — deeply imbedded in the affections and interests — would rise supreme over every local ambition or sectional scheme.

Mr. Choate's position was now such as any one might envy. As a statesman, his ideas and policy had nothing nar-

row or sectional. They embraced the welfare of the whole country, and of every part of it. He was identified with whatever in patriotism was most generous and unselfish. In his profession he had won the love, as well as the admiration, of his brethren. He stood at the head of the New England Bar; nor was there in the country an advocate whose well-earned reputation surpassed his. Too liberal to acquire an ample fortune, he had, nevertheless, secured a competence. His family was still almost unbroken. Two of his daughters were married,[1] and lived very near him. His residence and his library had been every year growing more and more to his mind. His library had always been an object of special interest. On moving into his house in Winthrop Place, it filled a front chamber directly over the parlor. Soon overflowing, it swept away the partition between that and a small room over the front entry. Then, accumulating still more rapidly, it burst all barriers and filled the whole second story. A friend visiting him one day, asked how he contrived to gain from Mrs. C. so large a part of the house. "Oh," said he, in a most delightfully jocular tone, "by fighting for it." It was indeed a charming retreat. Every wall, in all the irregularities of the room, filled with crowded bookcases, with here and there choice engravings and pictures in unoccupied places, or on frames arranged expressly to hold them; with tables, desks, luxurious chairs, and lounges, — all for use and nothing for show, though elegant, — all warm, familiar, and inviting. His library was rich in English literature and learning in all its branches, and in choice editions of the classics; well, though not amply, provided with modern foreign literature; and thoroughly stocked with all the apparatus of dictionaries, gazetteers, and maps, which a scholar constantly needs. It numbered, at the time of his death, about seven thousand volumes. His law library, it may be here stated, consisted of about three thousand volumes, and, I am informed by those familiar with it, was one of the best professional libraries in the State.

The next two years of Mr. Choate's life were diversified by little besides the ordinary varieties of his profession. In

[1] His eldest daughter to Joseph M. Bell, Esq.; and his youngest to Edward Ellerton Pratt, Esq.

February, 1857, he delivered before the Mechanic Apprentices' Library Association a lecture on the "Eloquence of Revolutionary Periods," in which he dwelt especially on Demosthenes and Cicero. It is full of high thoughts, and raises one by its beauty and magnanimity. Its eloquent defence of Cicero was harshly criticised, — one hardly knows why, — by some who accept the later theories of Cicero's life; but was received with rare satisfaction by the lovers of the patriotic Roman, — nearly the most eloquent of the Ancients.

In May of the same year he made his powerful and successful defence of Mrs. Dalton. This case excited great interest from the respectability of the parties, from the circumstances which preceded the trial, as well as from the great ability of the advocates on both sides.[1] Its details, however, true or false, were such as almost of necessity to exclude it, and the argument based upon it, from full publication. Shortly after his marriage, nearly two years before, Mr. Dalton discovered what he thought an improper intimacy between his wife and a young man by the name of Sumner. As a result of this, Sumner was induced to go to the house of Mr. Coburn, (who had married a sister of Mrs. Dalton,) in Shawmut Avenue, where he was confronted with Mrs. Dalton, was attacked by Dalton and Coburn, beaten and driven from the premises. He went home to Milton, where soon after he was taken sick and died. The story found its way into the newspapers, with the usual exaggerations and inaccuracies. The death of Sumner increased the popular excitement, and Dalton was arrested and imprisoned on a charge of murder. After lying in jail more than a month, the grand jury, on examining the case, indicted him for manslaughter, and for assault and battery. On the former charge he was acquitted; to the latter he plead guilty and was condemned to an imprisonment of five months. Soon after going to jail on this sentence, he filed his libel for a divorce. To hear such a cause in public before a jury, was a doubtful experiment, tried then for the first time. Day after day, for nearly three weeks, the court-room had been crowded by an eager and curious multitude, watching the parties who sat within the bar by the side of their respective counsel; watching every movement of the eminent advocates as they would the players of a great game,

[1] R. H. Dana, Jr., was Mr. Dalton's counsel.

and intently listening to the revelations of the evidence. Day by day the larger audience of the public had been both stimulated and sickened by the startling, contradictory, scandalous and disgusting details spread wide in the newspapers. All were waiting with curiosity and interest, and some with intense anxiety, for the result of the trial, which at length drew to a close. The doors were no sooner opened on the morning when the argument was expected, than the court-room was crowded to its utmost capacity. While waiting for the judge to take his seat, much merriment was caused by a grave announcement from the sheriff that the second jury, which had been summoned in expectation that the trial would be ended, "might have leave to withdraw." As this was at the moment when expectation was at the highest, and chairs were at a premium, and whoever had a standing-place felt that he was a fortunate man, the effect may be easily imagined.

Mr. Choate was punctually in his place at the appointed time; behind and near him sat his young client attended by her mother and sister. Not far distant, and close to his counsel, his eye turned often to the great advocate but never *to her*, was a fair and pleasant looking young man — the husband suing for a divorce from a wife charged with the most serious criminality. Immediately on the opening of the court, Mr. Choate rose, and, after briefly referring to a case or two in a law-book, commenced in a grave and quiet manner by congratulating the jury on *approaching*, at least, the close of a duty so severe and so painful to all. He then in a few sentences, with a felicity which has seldom been equalled, professed to be really pleading for the interests of both parties.

"It very rarely happens indeed, gentlemen, in the trial of a civil controversy, that both parties have an equal, or however, a vast interest, that one of them, — in this case the defendant, — should be clearly proved to be entitled to your verdict. Unusual as it is, such is now the view of the case that I take; such a one is the trial now before you. To both of these parties it is of supreme importance, in the view that I take of it, that you should find this young wife, erring, indiscreet, imprudent, forgetful of herself, if it be so, but innocent of the last and the greatest crime of a married woman. I say, to *both* parties it is important. I cannot deny,

of course, that her interest in such a result is, perhaps, the greater of the two. For her, indeed, it is not too much to say that everything is staked upon the result. I cannot, of course, hope, I cannot say, that any verdict you can render will ever enable her to recall those weeks of folly, and frivolity, and vanity, without a blush — without a tear; I cannot desire that it should be so. But, gentlemen, whether these grave and impressive proceedings shall terminate by sending this young wife from your presence with the scarlet letter upon her brow; whether in this her morning of life, her name shall be thus publicly stricken from the roll of virtuous women, — her whole future darkened by dishonor, and waylaid by temptation, — her companions driven from her side, — herself cast out, it may be, upon common society, the sport of libertines, unassisted by public opinion, or sympathy, or self-respect, — this certainly rests with you. For her, therefore, I am surely warranted in saying, that more than her life is at stake. 'Whatsoever things are honest, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue, if there be any praise,' all the chances that are to be left her in life for winning and holding these holy, beautiful and needful things, rest with you. . . . .

"But is there not another person, gentlemen, interested in these proceedings with an equal, or at least a supreme, interest with the respondent, that you shall be able by your verdict to say that Helen Dalton is not guilty of the crime of adultery; and is not that person her husband? . . . . If you can here and now on this evidence acquit your consciences, and render a verdict that shall assure this husband that a jury of Suffolk — men of honor and spirit — some of them his personal friends, believe that he has been the victim of a cruel and groundless jealousy; that they believe that he has been led by that scandal that circulates about him, and has influenced him everywhere; that he has been made to misconceive the nature and over-estimate the extent of the injury his wife has done him; . . . . if you can thus enable him to see that without dishonor he may again take her to his bosom, let me ask you if any other human being can do another so great a kindness as this?"

He then went on throughout the day, with a general state-

ment and review of the evidence, so as to conciliate the jury to the theory of culpable indiscretion indeed, but of indiscretion consistent after all with innocence. This was the theme of all the variations of that music, — an intimacy light, transient, indiscreet, foolish, inexcusable, wrong, yet not carried to the last crime, — consistent still with devoted love for her husband, whom "she followed, half distracted, to the jail, — hovering about that cell, — a beam of light, a dove of constant presence." To this was added the fact that after most of these indiscretions were known to Dalton, and after the scene when Sumner was assaulted and driven from the house, he still loved, cherished, and lived with her, and wrote that series of letters from the jail "so beautiful, so manly, one long, unbroken strain of music, the burthen of which is home, sweet home; and you, my loved one, my fond one, — dearer and better for what has happened, — you again to fill, illumine, and bless it."

These thoughts he never lost sight of during the long and varied statement, and the searching examination of the evidence, which followed. A part of that evidence was hard to evade. Two witnesses had sworn to a confession, or what amounted to one, on the part of Mrs. Dalton. How their evidence and characters were sifted, no one can forget who heard, nor fail to understand, who reads. They crumbled in his hand like clay. Sometimes with the gravest denunciation and sometimes with the keenest ridicule, he demonstrated the improbabilities and impossibilities of the testimony, till all felt that if there was not perjury there must be mistake. Seldom has a witness been held up in a light more irresistibly ludicrous than John H. Coburn, who had confessed to making false representations by telegraphic communications and otherwise, in order to excite the fear of Mr. Gove, the father of Mrs. Dalton, and extort from him money and clothing (as he was a clothing merchant). "He found out," said the advocate, "that Mr. Gove was extremely exercised by the attack upon his daughter, 'and,' says he, 'I will have a jacket and trousers out of this business, — I see pantaloons there; I will have a game of billiards and a suit of clothes, or I am nobody!'" The house was convulsed with laughter at the ludicrous picture. At the same time he was most careful not

to carry the raillery too far. "I am bringing him up to the golden tests and standards by which the law weighs proof, or the assayer weighs gold." But it might be said that this proceeding of Coburn was only a joke. "Practise a joke under those circumstances!" said the advocate. "Is this the character of Coburn? Why, he admitted all this falsehood on the stand in such a winning, ingenuous, and loving way,—that he was a great rogue and liar, and had been everywhere, — that we were almost attracted to him. It is, therefore, fit and proper we should know that this winning confession of Coburn on the stand was not quite so voluntary after all. This Coburn, about six days ago, was attacked by a very bad erysipelas in his foot or ankle. In my humble judgment it was an erysipelas of apprehension about coming into the court-house to testify under the eye of the court and jury. But he was attacked; and accordingly we sent a couple of eminent physicians — Drs. Dana and Durant — to see what they could do for him, and they put him through a course of warm water or composition powder, or one thing or another, till they cured the erysipelas beyond all doubt, gentlemen. They cured the patient, but they killed the witness. [Here the sheriff had to interfere to check the laughter.] So the man came upon the stand and admitted he sent this communication by telegraph, and the message from the Parker and the Tremont. He swore forty times very deliberately that he never wrote one of them, — deliberately and repeatedly over and over again, — and it was not till my friend, the Doctor here, had turned the screw about a hundred times with from forty to fifty interrogations, that he was beaten from one covert into another, until at last he was obliged to confess — although he began with most peremptorily denying it altogether — that he sent the telegraph and wrote the forged communication from the Tremont and the Parker House."

So the stream of argument and raillery, and sarcasm and pathos, rolled on ample, unchecked, and overwhelming, for two long summer days, (no one in the throng of auditors restless or weary,) and drew to its close in exquisite quietness and beauty. "I leave her case, therefore," said the advocate, as if repeating the refrain of a hymn, "upon this statement, and respectfully submit that for *both* their sakes you will ren-

der a verdict promptly and joyfully in favor of Helen Dalton — for both their sakes. There is a future for them both together, gentlemen, I think. But if that be not so, — if it be that this matter has proceeded so far that her husband's affections have been alienated, and that a happy life in her case has become impracticable, — yet for all that, let there be no divorce. For no levity, no vanity, no indiscretion, let there be a divorce. I bring to your minds the words of Him who spake as never man spake: 'Whosoever putteth away his wife' — for vanity, for coquetry, for levity, for flirtation — whosoever putteth away his wife for anything short of adultery, and that established by clear, undoubted, and credible proof, — whosoever does it, 'causeth her to commit adultery.' If they may not be dismissed then, gentlemen, to live again together, for her sake and her parents' sake, sustain her. Give her back to self-respect, and the assistance of that public opinion which all of us require."

One word of the last letter of the wife to the husband, and a single echoing sentence, finished this remarkable speech. "'Wishing you much happiness and peace with much love, if you will accept it, I remain, your wife.' So may she remain until that one of them to whom it is appointed first to die shall find the peace of the grave!"

The mere reading of this argument can give but a feeble idea of its beauty and cogency to those who were so fortunate as to listen. Oftentimes, before a legal tribunal, the cause is greater than the advocate. He rises to it, and is upheld by it. But sometimes it is his province to create an interest, which the subject itself does not afford; to enliven the dull; to dignify the mean; to decorate the unseemly. The body may be vile, but he arrays it in purple and crowns it with gems. This case, though with some elements of unusual character, would probably have fallen to the dreary level of similar actions, were it not lifted and enveloped in light by the genius of the advocate. It is like some of those which made Erskine and Curran famous; and the defence shows a power not inferior to theirs. As a result of it, the jury disagreed; the divorce was not consummated; and it is understood (as if to make the spirit of the argument prophetic) that the parties are now living together in harmony.

The following letters need no explanation: —

TO HON. EDWARD EVERETT.

"Boston, 30th September, 1857.

"MY DEAR SIR, — I was sick when your kindest gift of the Inauguration Discourse [1] was brought in, and although able to read it instantly, — for I was not dying, — it is only now that I have become able to thank you for your courtesy, and to express the exceeding delight, and, as it were, triumph, with which I have studied this most noble exposition of the good, fair, and useful of the high things of knowledge. To have said on such themes what is new and yet true, in words so exact as well as pictured and burning, and in a spirit so fresh and exulting, and yet wise, sober, and tender, was, I should have thought, almost impossible even for you. I wonder as much as I love, and am proud for you on the double tie of friendship and of country.

"I remain, with greatest regard, your servant and friend,

"RUFUS CHOATE."

TO HON. EDWARD EVERETT.

"Winthrop Place, 17th November, 1857.

"MY DEAR SIR, — I was not aware of that hiatus, and I made an exchange of my 21 vols. for a set extending over a longer period, and containing 30 vols. or more. I have found no defect that I remember. I beg you to supply your immediate wants from this one, if it is not just as bad.

"There is a certain gloomy and dangerous sense in which I am 'gratified.' But 'renown and grace' — where are they? Such a series of papers as you hint at would 'bless mankind, and rescue' Mr. Buchanan. I *entreat* you to give him and all conservative men an idea of a patriot administration. Kansas must be free — *sua sponte* — and the nation kept quiet and honest, yet with a certain sense of growth, nor unmindful of opportunities of glory. Most truly, your friend,

"R. CHOATE."

A lecture on Jefferson, Burr, and Hamilton, which he delivered March 10th, 1858, though of necessity general and somewhat desultory, was marked by his usual breadth of delineation and brilliancy of coloring, and led him to review and re-state some of the fundamental ideas which marked the origin and progress of our government. I pass by his delineation of Jefferson, who brought to the great work of that era "the magic of style and the habit and the power of delicious dalliance with those large and fair ideas of freedom and equality, so dear to man, so irresistible in that day;" and

[1] An Address delivered at St. Louis, at the Inauguration of Washington University of the State of Missouri.

of Burr, to whom he was just, but whom he did not love, and whose "shadow of a name" he thought it unfair to compare for a moment with either of the others; and content myself with the conclusion of his sketch of Hamilton. After referring to the progress and the changes in the public sentiment of America, by which the Confederation, largely through Hamilton's influence, melted into the Union, he proceeds: —

"I find him [Hamilton] growing from his speech in 'the Great Fields,' at seventeen, in 1774, to the last number of 'The Federalist.' I find him everywhere in advance; everywhere frankest of our public men. Earlier than every other, bolder than every other, he saw and he announced that the Confederation could not govern, could not consolidate, could not create the America for which we had been fighting. Sooner than every one he saw and taught that we wanted, not a league, but a government. Sooner than every one he saw that a partition of sovereignty was practicable, — that the State might retain part, the new nation acquire part; — that the grander, more imperial — the right of war, of peace, of diplomacy, of taxation, of commerce, and rights similar and kindred — might be acquired and wielded directly by the nation, and the vast, various and uncertain residue held by the States, which in this system were an essential part; — that the result would be one great People — *E Pluribus Unum* — master of a continent, a match for a world. To him more than to all or any one besides we owe it, that the convention at Annapolis ascended above the vain, timid and low hope of amending the old Articles, assumed the high character of a direct representation of the People of these States, and took on themselves the responsibility of giving to that People for acceptance or rejection — by conventions in their States — a form of government completely new.

"These speculations, these aims, ruled his life from 1780 to 1789. 'That age — all of it — is full of his power, his truth, his wisdom,' — full to running over. Single sentiments; particular preferences minor, and less or more characteristic; less cherished details, — modes, stages, proofs of opinion, — of these I have said nothing, for history cares nothing. I do not maintain that he did as much in the convention at Annapolis as others to shape the actual provisions

of the Constitution. I do not contend that he liked all of them very well. But soldier-like, statesman-like, sailor-like, he felt the general pulse; he surveyed his country; he heaved the lead at every inch of his way. His great letter to Duane in 1780 anticipates the Union and the Government in which we live. Through the press, in the Assembly of New York, in the old Congress, to some extent in the Constitutional, and to large extent in the State Convention, he was first; he who, like Webster, never flattered the people, but served them as he did, dared to address their reason, their interests, — not their passion of progress, — in 'The Federalist.' And of the foremost and from the start he espoused that Constitution all as his, and loved, and honored, and maintained it all till he went to his untimely grave.

"I dwell on that time from 1780 to 1789 because that was our age of civil greatness. Then, first, we grew to be *one.* In that time our nation was born. That which went before made us independent. Our better liberty, our law, our order, our union, our credit, our commerce, our rank among the nations, our page in the great history we owe to this. Independence was the work of *the higher passions.* The Constitution was the *slow product of wisdom.* I do not deny that in that age was sown the seed of our party divisions; of our strict and our liberal Constructionists; of our Unionists and States Rights Men; of smaller Hamiltons, and smaller Jeffersons. But who now dares raise a hand against the system which illustrates that day? Who dares now to say that the Union shall not stand as they left it? Who dares now to say that the wide arch of empire ranged by them shall not span a continent? Who dares now to say that the America of that day; the America of this; the America of all time and all history, is not his own America; first, last, midst; who does not hail on that flag, streaming over land and sea, — living or dying, — the writing, bathed and blazing in light, 'Liberty and Union, now and forever, one and inseparable!'

"The public life of Hamilton closes with the fall of Federalism, in 1801, as a party of the nation. In his administration as first Secretary of the Treasury, in his general counsels to Washington, in his general influence on the first years of

our youthful world, you see the same masterly capacity; the same devotion to the Constitution as it was written, and to the Union which it helped to grow; the same civil wisdom; the same filial love; the same American feeling; the same transparent truth which had before made him our first of statesmen. Some, all, or almost all, of the works which he did, have come under the judgment of party and of time; and on these, opinions are divided. But no man has called in question the ability which established all departments, and framed and presided over that one; which debated the constitutionality and expediency of that small first Bank; which funded our debts, restored order to our credit; which saw in us before we saw, before Smith saw, our capacity to manufacture for ourselves; which made us impartial and made us neutral while our ancient friends became a Republic, and our ancient enemy and the world were in arms for old, shaking thrones. When that argument for the Bank was read by the Judges in 1819, one of them said, that every other supporter and opponent of that measure in the age of Washington, seemed a child in the grasp of a giant. In this last era his difference in all things from Jefferson became more widely pronounced; each retired from the cabinet; and in 1801 Democracy became the national politics of America.

"I have avoided, as I ought, all inquiry into the private life of Burr. I am equally reserved on that of Hamilton; although that private life fears no disclosures as a whole, and no contrasts as a whole. Yet this sketch would be imperfect more than it must be, if I did not add something which I have read, heard, or thought on the man.

"From 1781 to 1789, and again from 1795 till his death in 1804 — some seventeen years — he practised the law. I hear that in that profession he was wise, safe, and just; that his fees were moderate; that his honor was without a stain; that his general ability was transcendent, and that in rank he was leader. A gentleman from this city, whose name I might give, solicited his counsel in some emergency. He admired, as all did, his knowledge of men, his ingenuity, his promptness; and tendered him a fee of one hundred dollars. 'No, Sir,' said Hamilton, handing him back the difference, 'twenty dollars is very abundant.' He was consulted by a guardian,

knavish as the guardian of Demosthenes. He heard his story; developed its details; ran with him through the general wilderness of his roguery; and then, sternly as at Yorktown, — 'Now go and make your peace with your ward, or I will hunt you as a hare for his skin.' There was a political opponent, — oldish, delicate, and prejudiced, — who hated him and his administration of the treasury, but who lost no hour, day in and day out, at Albany, in the Errors and Supreme Court, to hear every word that he said. 'I could never,' said he, 'withdraw from him half an eye. It was all one steady, flashing, deepening flow of mind.' This I heard from a member of Congress.

"His masterpiece at the Bar was the defence of Creswell, of 'The Balance,' published at Hudson, for a libel, in 1804. It is reported in Johnson's Cases. It is better reported by Chancellor Kent, who heard it; by the universal tradition, which boasts of it as of the grandest displays of the legal profession; and by the common or statute law of America, on which it is written forever. There and then he engraved on our mind, as with a pen of steel, the doctrine, that truth from right motives, for justifiable ends, might be safely written of everybody, high or low.

"Such — so limited — is our unwritten or our better liberty.

"That argument was made to a bench of Judges. It was made to an audience of lawyers and educated men; and I have heard that tears unbidden — silence that held his breath to hear applause unrepressed — murmurs not loud, but deep — marked the magic and the power.

"He wrote out that argument at length; then tore his manuscript in fragments, and spoke as he was moved of the genius within him!

"Who surpassed him as a reasoner? You all know the calm power of 'The Federalist.' Do you admire anything in that immortal work more than his transparent and quiet style; his pure English, always equal to itself; his skilful interpretation; his masterly ability with which from the nature of man, the nature of government, the lessons of history, the past and present of Europe, the uses of a head, the uses of a nation, — he demonstrated that such powers must be given, and such

powers are given? Who, since the eighty-eighth number, has dared to doubt that to the judge it is given to compare the law with the Constitution, and to pronounce which is higher; and that from the judge there lies no appeal!

"What a revolution may do to force prematurely the capacity of man, we, thank God! know not. What a cross of Scotch and Huguenot blood; a birth, infancy, childhood, and boyhood beneath those tropics where the earthquake revels, which the hurricane sweeps over, which the fever wastes at noonday, over which the sun tyrannizes, whose air is full of electricity, and whose soil is of fire,—personally we know not. But I own I am struck with nothing more than the precociousness of those mighty powers, and their equal, balanced, and safe development. At seventeen, he addressed masses on non-importation in 'the Great Fields' of New York, with the eloquence and energy of James Otis. At eighteen, he was among our ablest and wisest in the conduct of that great controversy with the measures of a king. At twenty, he conceived our Union. At thirty-two he wrote his share of 'The Federalist.' At thirty-eight his public life was over. I doubt if Pascal, if Grotius, if Cæsar, if Napoleon, had so early in life revealed powers vaster and maturer.

"There is one memory of Hamilton to which he is entitled in his bloody grave, and by which his truest eulogy is spoken, which refutes of itself ten thousand slanders, and which blooms over him — over Hoboken — over the church where his tomb is kept, — ever fragrant and ever new. With the exception, of course, of certain political opponents, and of a competitor or two, no man knew him who did not dearly love him; no one loved him once that did not love him to the last gasp. From the moment he saw and talked with him as Captain of Artillery, from the hour after he left his military family, until he slept that long sleep at Mount Vernon, Washington held him to his heart; and when that man—greatest of earth — died, Hamilton sat down speechless in the presence of Sedgwick, pressed his hand upon his eyes, and cried as a child for a father dead. 'The tears,' said Ames, 'that flow over this fond recital will never dry up. My heart, prostrated with the remembrance of Hamilton, grows liquid as I write, and I could pour it out like water.'

"To compare the claims and deeds of Burr with those of this great man, his victim, were impious. To compare those of Hamilton, or contrast them with those of the great Philanthropist and Democrat, Thomas Jefferson, who is equal? Each in his kind was greatest; each in his kind advanced the true interests of America."

The following letter will illustrate the playful mixture of literature with business, which often characterized Mr. Choate's intercourse with friends. It occurred after a meeting on professional affairs, during which a question — forgotten, however, almost as soon as proposed, till thus again brought to mind — had arisen on the reading of a passage in Virgil: —

TO GEORGE T. DAVIS, ESQ.

"Boston, 20th April, 1858.

"DEAR SIR, — I am glad they are beaten, as they deserve to be. Of course, no adjustment now is to be heard of. The motion is the shadow of a shade, and I guess, after actual fraud found, the bill stands, and the cancellation follows, — which leads me to say how Virgil wrote it, averno, or averni. We shall never know till we ask him in the meads of Asphodel. But Forbiger, Wagner, Heyne, Servius, after the *cracker* MSS., write averno. So in the more showy texts it is now. When we meet we will settle or change all that. Truly yours,

"RUFUS CHOATE."

In 1858 Mr. Choate accepted an invitation to deliver an oration, on the 4th of July, before the Boston Democratic Club. It was with the understanding, however, that no party affinities were to be recognized. He spoke for the Union, and his subject was "*American Nationality — its Nature — some of its Conditions, and some of its Ethics.*" He was received with wild and tumultuous applause, and heard with profound interest and sympathy by the multitudes which crowded the Tremont Temple; but many were pained to perceive the marks of physical weakness and exhaustion. He spoke with difficulty, and could hardly be heard throughout the large hall. But there was an earnestness and almost solemnity in his words which sunk deep into the hearts of the audience. It was a plea for the nation, in view of a peril which he thought he foresaw, as a necessary result of rash counsels, of a false political philosophy, and of wild theories of political

morality. He never again addressed his fellow-citizens on questions of general political interest, and his last public words may be said to have been spoken in behalf of that Union which he so warmly loved, — that one nation whose grand march across the continent, whose unrivalled increase in all the elements of power so stimulated and gratified his patriotic ambition. Whether or not his fears were wise, we may now perhaps be better able to judge than when he first uttered them.

How his words were received by those who heard him, was admirably expressed by Mr. Everett at a banquet, on the same afternoon, at the Revere House. "For myself, Sir," he said, "standing aloof from public life and from all existing party organizations, I can truly say that I have never listened to an exposition of political principle with higher satisfaction. I heard the late Mr. Samuel Rogers, the venerable banker-poet of London, more than once relate that he was present on the 10th of December, 1790, when Sir Joshua Reynolds delivered the last of his discourses before the Royal Academy of Art. Edmund Burke was also one of the audience; and at the close of the lecture Mr. Rogers saw him go up to Sir Joshua, and heard him say, in the fulness of his delight, in the words of Milton: —

> 'The angel ended, and in Adam's ear
> So charming left his voice, that he awhile
> Thought him still speaking, still stood fixed to hear.'

When our friend concluded his superb oration this morning, I was ready, like Mr. Cruger (who stood with Burke for the representation of Bristol), 'to say ditto to Mr. Burke.' I was unwilling to believe that the noble strain, by turns persuasive, melting, and sublime, had ended. The music of the voice still dwelt upon my ear; the lofty train of thought elevated and braced my understanding; the generous sentiments filled my bosom with delight, as the peal of a magnificent organ, touched by the master's hand, thrills the nerves with rapture and causes even the vaulted roof to vibrate in unison. The charmed silence seemed for a while to prolong the charming strain, and it was some moments before I was willing to admit that the stops were closed and the keys hushed."

CHAPTER X.

1858–1859.

Failing Health — Speech at the Webster Festival, January, 1859 — Address at the Essex Street Church — Last Law Case — Goes to Dorchester — Occupations — Decides to go to Europe — Letter to Hon. Charles Eames — Letter to Alfred Abbott, Esq. — Sails in The Europa, Capt. Leitch — Illness on Board — Lands at Halifax — Letter from Hon. George S. Hillard — Sudden Death — Proceedings of Public Bodies — Meeting of the Boston Bar — Speeches of Hon. C. G. Loring, R. H. Dana, Judge Curtis and Judge Sprague — Meeting in Faneuil Hall — Speech of Mr. Everett — Funeral.

For several years Mr. Choate's health had not unfrequently excited the anxiety of his friends. They wondered how he could endure such continuous and exhausting labors; why he, whose mind was always on the stretch, who took no rest, and allowed himself no recreation but that of his library, should not at last fail, like the over-strained courser. Their fears were not groundless. The deepening lines of his countenance pallid and sallow, the frame feebler than once, the voice less strong, the whole manner less energetic, demonstrated a need of caution. He was under an engagement to address the Alumni of Dartmouth College at their triennial meeting in 1858, and had made a partial preparation, but at the last moment was obliged to give it up, and betake himself for a few idle and wearisome days to the sea-side. A week or two of respite from work — it could not be called recreation — a brief visit at Essex, a few nights in Dorchester at the residence of his daughter, Mrs. Bell — gave tone again to his wonderfully elastic constitution. I saw him repeatedly during the next winter, and, notwithstanding some unfavorable symptoms, thought that for a long time I had not seen him in such exuberance of spirits. I heard him make two arguments, and could not but notice the vigorous life with which he moved. There was the same intellectual face — the same eye, black,

wide open, looking straight at the jury, and at individuals of them as he addressed now one and then another, — the same unrivalled felicity of speech, — the same tremendous vehemence, a little tempered, perhaps, — the same manner of straightening and drawing himself up at an interruption, — the same playfulness and good humor, — the occasional dropping of his voice to a confidential whisper, — the confident exactness of statement, — the absolute command of every circumstance, — the instantaneous apprehension, — the lightning rapidity of thought, — the subtle, but clear and impregnable logic. This apparent vigor proved, however, to be but the last flashes of the fire whose fuel was nearly exhausted.

The friends of Mr. Webster, according to a custom which had grown into honor among them, celebrated his birthday in 1859 by a festive gathering, which Mr. Choate found himself able, though but just able, to attend. With what warmth he spoke on that theme which never failed to stimulate him, those who heard will never forget. They thought he was never so eloquent.

He spoke but once more in public out of the line of his profession. The twenty-fifth anniversary of the settlement of the Rev. Dr. Adams, whose church he attended, was celebrated on the 28th of March. He could not resist the wish to bear his testimony to the opinions and character of one whom he deeply respected and loved. It was a large and interesting assemblage of clergymen and laymen, met to pay a tribute of respect to a faithful Christian minister. Mr. Choate spoke with great tenderness and depth of feeling of the many years they had been together in that society, alluding briefly, in illustration, to the great events which in the mean time had been taking place in Europe and in this country. He then spoke of the reasons — accident or inclination — which had brought them to that house as their habitual place of worship, first among which he named the love and respect of the congregation for its minister. They had marked the daily beauty of his life, his consistency, his steadiness, his affectionateness, his sincerity, — transparent to every eye, — his abilities, his moderation, his taste, his courage. They had seen him on some occasions most interesting to the feelings, and which dwell the longest in the memory and the affections: at the bedside of the sick and dying, at the burial of those loved

most on earth, at the baptism of their children, or when first they clasped the hands of their brides. Thus between them and him there had been woven a tie which could never be sundered, even when the silver cord itself is loosed and the golden bowl is broken.

"There is a second reason, however," he proceeded to say, "which we may with very great propriety give for the selection which we have made, and to which we have so long adhered; and it is, my friends, that we have attended this worship and attached ourselves to this society, because we have believed that we found here a union of a true and old religion, with a possibility and the duty of a theory of culture and of love for that in which the mental and moral nature of man may be developed and may be completely accomplished.

"That we hold a specific religious creed, is quite certain; obtruding it on nobody, and not for a moment, of course, dreaming of defending ourselves against anybody, — in the way of our fathers, we worship God in this assembly. We believe that the sources and proof and authority of religion rest upon a written revelation, communicated by the Supreme Will to a race standing in certain specific abnormal conditions. What that Will, honestly gathered, teaches, composes the whole religious duty of man. To find out that meaning by all the aids of which a thorough and an honest scholarship may possibly avail itself, — by the study of original tongues, — by the study of the history and government and manners and customs and geography of the nations in which it was first published, — by a collation, honestly and intelligently, of one version with another version, — by the history of creeds, — by attending especially to the faith of those churches who thought they saw the light at first, and saw it when it was clearest and brightest, — by all this, we say, it is the first duty of the minister to learn the truth; and the second duty is to impress it by persuasive speech and holy life upon the consciences and hearts of men. These things, truly and honestly interrogated, reveal a certain state of truths, and these compose our creed, and the creed of every other denomination possessing and preaching and maintaining a kindred theology. Diversities of expression there are undoubtedly; diversities of the metaphysical theories of those who hold them; more or less sali-

ency, more or less illustration in the mode in which they are presented; but substantially we have thought they were one. We regard the unity, and we forget the diversity, in concentration of kindred substances. I think our church began with the name and in the principle of Union; and in that name, and according to that principle, we maintain it to-day.

"And now, is there anything, my friends, in all this, which is incompatible, in any degree, with the warmest and most generous and large and liberal and general culture, with the warmest heart, with the most expansive and hopeful philanthropy, with the most tolerant, most cheerful, most charitable love of man? Do we not all of us hold that outside of this special, authoritative, written revelation, thus promulgated, collateral with it, consistent with it, the creation of the same nature, there is another system still, a mental and moral nature, which we may with great propriety expose, and which we may very wisely and fitly study and enjoy? Into that system are we forbidden to pry, lest we become, or be in danger of becoming, Atheists, Deists, Pantheists, or Dilettanti, or Epicurean? What is there to hinder us from walking — consistently with our faith and the preaching to which every Sunday we are so privileged to listen — what is there to hinder us from walking on the shore of the great ocean of general truth, and gathering up here and there one of its pebbles, and listening here and there to the music of one of its shells? What is there to hinder us from looking at that natural revelation that shall be true hereafter? What is there in all this to prevent us from trying to open, if we can open, the clasped volume of that elder, if it may be that obscurer Scripture? What is there to hinder us from studying the science of the stars, from going back with the geologist to the birthday of a real creation, and thus tracing the line through the vestiges of a real and a true creation down to that later and great period of time, when the morning stars sang together, exulting over this rising ball? What is there to hinder us, if we dare to do it, from going down with chemists and physiologists to the very chambers of existence, and trying thence to trace, if we may, the faint lines by which matter rose to vitality, and vitality welled up first to animals, and then to man? What is there to prevent us from trying to trace the footsteps of God in

history, from reading his law in the policies of States, in the principles of morals, and in the science of governments, — his love in the happiness of all the families of the human race, in animals and in man, — his retributions in the judgments that are 'abroad in all the earth?' Is there anything to hinder us, in the faith we hold, from indulging the implanted sense of beauty in watching the last glow of the summer eve, or the first faint flush that precedes or follows the glorious rising of the morning? Because we happen to believe that a written revelation is authoritative upon every man, and that there is contained in it, distinctly and expressly, the expression of the need of reconciliation, is there anything in all this, let me ask you, my friends, which should hinder us from trying to explore the spirit of Plato, from admiring the supremacy of mind — which is at last the inspiration of the Almighty, that gives you understanding — in such an intellect as that of Newton, — from looking at the camp-fires as they glitter on the plains of Troy, — from standing on the battlements of heaven with Milton, — from standing by the side of Macbeth, sympathizing with, or at least appreciating something of, the compunction and horror that followed the murder of his friend and host and king, — from going out with old Lear, gray hair streaming, and throat choking, and heart bursting with a sense of filial ingratitude, — from standing by the side of Othello, when he takes the life of all that he loves best in this world, 'not for hate, but all for honor,' — from admiring and saddening to see how the fond and deep and delicate spirit of Hamlet becomes oppressed and maddened by the terrible discovery, by the sense of duty not entirely clear, by the conflict of emotions, and by the shrinking dread of that life to come, as if he saw a hand we could not see, and heard a voice we could not hear? Certainly there can be no manner of doubt that our faith, such as you profess it and such as you hold it, will give direction in one sense to all our studies. There can be doubt, in one sense and to a certain extent, it baptizes and holds control over those studies; certainly, also, it may be admitted, that it creates tendencies and tastes that may a little less reluctantly lead away a man from the contemplation of these subjects; but is it incompatible with them? Do you think that Agassiz, that Everett, each transcendent in his own

department of genius, has become so, because he held, or did not hold, a specific faith? Because you believe the Old Testament, as well as the New, cannot you read a classic in the last and best edition, if you know how to read it? That is the great question at last, and I apprehend that the incompatibility of which we sometimes hear, has no foundation in the things that are to be compared. Did poor, rich Cowper think them incompatible, one with another, when for so many years he soothed that burning brow and stayed that fainting reason, and turned back those dark billows that threatened to overwhelm him, by his translation of the Iliad and Odyssey? What did he say of this incompatibility himself? 'Learning has borne such fruit on all her branches, piety has found true friends in the friends of science, even prayer has flowed from lips wet with Castalian dews.' I hold, therefore, — and I shall be excused by the friends of other denominations, now and here present, if I deliberately repeat and publicly record, — that we have attended this church, attached ourselves to this congregation, and adhere to this form of faith, because we believe it to be the old religion, the true religion, and the safest; and because, also, we have thought that there was no incompatibility between it and the largest and most generous mental culture, and the widest philanthropy, that are necessary in order to complete the moral and mental development and accomplishment of man."

In a strain quite unusual, he then, in drawing to a close, commended and enforced the separation of party politics from the ordinary services of the pulpit.

The next day, March 29, he made his last argument before the full bench, in the case of Gage *vs.* Tudor. The indisposition with which he had been troubled during the winter — weakness, lassitude, and a frequently returning nausea, the causes of which were obscure, and not reached by medicines — had gradually increased and caused him more annoyance. His friends were solicitous; but he had frequently rallied from serious indisposition, and they hoped for the best. He was able still to be at his office; once more appeared before a single judge in chambers upon a question of alimony, and early in April, though really much too ill for the exertion, went, at the earnest solicitation of a junior, to look after a case in

Salem. It seemed a felicity of his life that the last time he appeared in court should be at that bar where, thirty-five years before, he had commenced the practice of his profession,— the Bar of Essex County. It was a case of a contested will, of considerable interest in itself, the decision turning upon the state of health of the testator. But those who were engaged in it were struck at observing the turn given by Mr. Choate to the examination of one of the medical witnesses, when, after obtaining all the information necessary to the point in hand, he proceeded with a series of questions bearing evidently upon the nature of the disease under which he supposed himself laboring. No notice was taken of it at the time; but he subsequently alluded to it in conversation with his junior counsel, suggesting that he thought he had a disease of the heart which might at any moment prove fatal. As the cause proceeded he found himself unequal to the labor of the trial, and withdrew from it before its close, returning home on Saturday the 16th of April. He never went to his office again; and, with the exception of once attending church, and going to the funeral of a daughter of a much revered friend, (Hon. Jeremiah Mason,) never again to any place of public assembly. Books became more than ever his solace and delight. He read as much as he was able, but more frequently listened, (his daughter reading aloud,) not to whole volumes or continuous discussions, but to a few pages of Bacon, a scene in Shakspeare, a few lines of Homer, a page of Wordsworth, a poem by Tennyson, and oftener still to religious works: to a parable or miracle as expounded by Dr. Trench, a Hulsean lecture by the same author, a discourse by Jeremy Taylor, or a chapter in "The Pilgrim's Progress."

His attention was now turned to a voyage to Europe as a means of alleviating his disorder. It would at any rate save him from all temptation to professional labor, and he hoped to find solace, pleasure, and health, in a quiet residence of a month or two in the south of England; his thoughts turning especially to the Isle of Wight. He accordingly secured a passage in the steamer which was to leave Boston about the middle of May. As the day drew near, however, he felt himself unequal to the voyage, and accordingly deferred his departure. The delay brought no material relief, and for the

sake of greater quiet, and the purer air of the country, he went on the 24th of May, to the residence of his son-in-law, Joseph M. Bell, Esq., in Dorchester. The month that he remained in this delightful suburban retreat was full of quiet enjoyment. His appetite good, he suffered from nothing but weakness and occasional sudden attacks of nausea. Every day he drove, sometimes into town to get books, sometimes into the country over the secluded and picturesque suburban roads about Boston, but oftener to the sea, or to some point from which he could get a view of the ocean. At home, not seeming to be very ill, he enjoyed everything with a rare and intense delight. His love of Nature, which had rather slumbered during the toils and anxieties of an active life, revived again as he looked upon her, undisturbed by the demands of a jealous profession. He would sit for hours in the sun, or under the shade of the veranda, or a tree near the house, watching the distant city, or the smoke curling up from far-off chimney tops, or the operations of husbandry going on all about him, or listening to favorite authors, or to music which he loved. Never had he seemed to enjoy every object with a keener relish. "What can a person do," he once said after looking long at a beautiful landscape, "life is not long enough—." He still made some attempt at a methodical arrangement of occupations. The early hours of the day were devoted to the Bible; then came the newspapers; then whatever books he might be interested in, from the Works of Lord Bacon to the last Review, several different works usually being read in the course of the morning. During this time he suffered no pain, and but for weakness which rendered it a labor for him to walk the length of the yard, or to ascend the stairs, he seemed as much like himself as ever. He saw no company, not being able to endure the fatigue of conversation, or dreading interruption by the nausea. But with his family, he was never more affectionate and playful, and never entered with fuller zest into their occupations and enjoyments. In the mean time the question of the voyage recurred, and he was compelled to make a decision. It was evident that the necessity somewhat weighed upon his mind, and that it was almost equally difficult for him to determine to stay or to go. His disease was obscure;

his physicians anticipated no injury from the voyage, and hoped for some relief. Three steamers had already sailed, since he first thought of going; and it was evident, if he hoped for benefit from a summer in England, that he could not much longer delay his departure. His reluctance to revoke a decision once fairly made, — especially as that would seem to be an acknowledgment of an illness more severe and immediately threatening than his friends or, perhaps, himself had allowed, — the prospect of rest, the hope of alleviation and some enjoyment, and possibly of recruiting — all urged him to carry out his plan. At the same time, — and this perhaps was the slight consideration which turned the scale, — he knew that Halifax was less than two days' sail from Boston, and that if the voyage proved disagreeable, or any way unfavorable, it was easy to cut it short and return. Preparations were accordingly made with apparent cheerfulness, though with a latent sadness and misgiving. Books were chosen, he himself making out the following list: The Bible; Daily Food; Luther on the Psalms; Hengstenberg's Psalms; Lewis's Six Days of Creation; Owen on Mark; The Iliad; The Georgics (Heyne's Virgil); Bacon's Advancement of Learning; Shakspeare; Milton; Coleridge; Thomson; Macaulay's History; Anastasius; The Crescent and the Cross. A few farewells were said, and a few farewell notes written, breathing of more, as it now seems, than a temporary separation. The following, to the Hon. Charles Eames of Washington, and another to Mr. Abbott, the District Attorney for Essex, were written the day before he sailed.

"Boston, Tuesday, June 28, 1859.

"MY DEAR SIR, — I borrow my son's hand to grasp yours and Mrs. Eames's with the friendship of many years, and on the eve of a departure in search of better health. God bless you till I return, and whether I return. Yours very sincerely,

"R. CHOATE, JR., for RUFUS CHOATE.

"HON. CHARLES EAMES."

"HON. A. A. ABBOTT: Boston, Tuesday afternoon, June 28, [1859.]

"MY DEAR SIR, — It would puzzle a Philadelphia doctor to say whether I am intrinsically better than when I saw you last, but I am quite competent to pronounce for myself that I love and esteem you, and Brother Lord, and Brother Huntington, quite as much as ever, and for

quite as much reason. Pray accept for yourself and give to them all, my love, and be sure that if I live to return, it will be with unabated regard for all of you. I am yours most affectionately,

"RUFUS CHOATE, by R. C. JR."

On the 29th of June he went on board The Europa, Capt. Leitch, accompanied by the members of his family and a few friends, and immediately lay down on the sofa in his state-room. The scene was necessarily a sad one, yet he was quite calm and seemed better than he had done, retaining his natural playfulness, speaking jocosely of the smallness of his reception-room in which so many were assembled, yet, with a peculiar tenderness, wishing to keep them all near him to the last.

When his friends left him as the hour for sailing drew near, mindful of the responsibility that might seem to devolve on his medical attendants, he sent word by his daughter, Mrs. Bell, to Dr. Putnam, his physician, that "whatever might be the event, he was satisfied that everything had been done for the best." During the voyage to Halifax he lay in his state-room still, almost like marble, and with no restlessness of body or mind, conversing but little, and suffering somewhat from sea-sickness. On Thursday a bad symptom showed itself, in the swelling of his hands. The ship's surgeon, Dr. Bry, and another physician on board, Dr. Tyler, of Brookfield, were consulted, and came to the conclusion that it was hazardous for him to proceed, as, in their opinion, the excitement attendant upon any accident, or a severe storm, might cause death at once. To the advice tendered by them and other friends on board, after a little hesitation, he assented, apparently glad of a chance of relief, *he was so weary*.

The letter of a fellow-passenger, Hon. George S. Hillard, describes the circumstances of the midnight landing too graphically to be omitted or forgotten in this narrative. "From the moment I first looked upon him, on the morning of the day that we sailed," says Mr. Hillard, writing from England, after hearing of his death, "I felt assured that the hand of death was on him. His berth was next to mine, and I saw him many times during the short period he remained on board. He was always lying at full length upon the sofa, and perfectly quiet, though not reading or listening to reading. This

in itself, in one with so active a brain and restless an organization as his, was rather an ominous sign. In the brief moments of intercourse I had with him, the feminine sweetness and gentleness of manner which always characterized him was very marked and very touching. The determination that he should stop at Halifax was come to before dinner on the 30th, and all preparations were duly made to have him landed so soon as we should reach the port. This was not accomplished until midnight; the night was very dark, and all that we could see of the town was a mass of indistinct gloom, dotted here and there with twinkling lights. We took on board a large number of passengers, and you can well imagine the distracting hurry and confusion of such a scene; the jostling of porters and luggage, the trampling of restless feet, and all the while the escape-pipe driving one into madness with its ear-piercing hiss. Mr. Choate walked to his carriage, leaning heavily on my arm, his son's attention being absorbed by the care of the luggage. He moved slowly and with some difficulty, taking very short steps. Two carriages had been engaged, by some misunderstanding, but, on account of the luggage, it was found convenient to retain them both. Mr. Choate was put into one of them, alone, without any incumbrance of trunk or bag, and his son with the luggage occupied the other. When the moment for driving off came, I could not bear to see him carried out into the unknown darkness unaccompanied, and I asked Capt. Leitch, who was with us,—and whose thoughtful kindness I shall never forget,—how long a time I might have to drive up into the town; and he replied, half an hour. Hearing that the inn, or boarding-house, to which we were directed, was but half a mile off, I entered the coach, sat by his side, and off we went through the silent and gloomy streets. The half-mile stretched out into a long mile, and when we had reached the house, and I had deposited Mr. Choate on a sofa in the sitting-room, the landlady appalled me by saying that she had not an unoccupied bed in the house, and could not accommodate him. Her words fell upon my heart like a blow. . . . . In the mean time the inexorable moments were slipping away, and I was compelled to leave the house. I heard an airy voice calling me out of the darkness, and I could not by a moment enlarge the cap-

tain's leave. I left Mr. Choate upon the sofa, pale and exhausted, but patient and uncomplaining, his luggage in the street at the door, and his son at that midnight hour wandering about the streets of Halifax, seeking a temporary shelter for a dying father, with what result I have not yet heard. What with the sense of hurry, the irritation of this mischance, and the consciousness that I had seen my eminent friend for the last time, I drove back to the boat with a very sore heart. There are some passages in our lives which stamp themselves upon the memory with peculiar force and distinctness. Such were my midnight experiences at Halifax; if I should live to be a hundred years old, they would be as fresh before the mind's eye as they are now."

After Mr. Hillard left, a room was secured in what proved to be a very pleasant boarding-house, not far distant from the one to which he first drove. It was in the third story, and overlooked the harbor. Mr. Choate was too weak to ascend the stairs that night,[1] but slept well in a lower room, and the next morning was able to mount to his own. He immediately took to his bed, which he never again left. At the suggestion of the American Consul, Dr. Domville, surgeon on board the flag-ship of the Admiral then in command of the British fleet on the North American station, was called in, and through his prescriptions the most unfavorable symptoms were soon alleviated. From day to day he remained nearly the same, rising from his bed only to have it made, talking but little, watching — with the old, habitual love of the sea — as he could without raising his head from the pillow, the unloading of the ships, and the vessels moving in the harbor. "If a schooner or sloop goes by," he once said, when dropping into a doze, "don't disturb me, but if there is a square-rigged vessel, wake me up." By night his son sat by his side till he was sound asleep, when, by his special request, he was left alone, and usually slept well. Only one night did he seem at all unlike himself, when being oppressed for breath, he seemed to imagine that people were crowding round the bed. His books were read to him: Shakspeare, (The Tempest), Bacon's Advancement of Learning, Macaulay's History, The Six Days

[1] He was so feeble that, in going from one house to the other, he fell forward in the carriage and was not able to raise himself.

of Creation, Gray's Poem on Adversity, (he selecting it,) Luther on the Psalms, and more variously and constantly than all, the Bible. He talked much of home, making little plans about the best way of getting there; talked of sending for his family to come to him, but thought he should recruit so soon that it would be of no use; talked about Essex, of wanting to go down there and having a boat built for him, discussing her size and rig. He was constantly cheerful, pleasant, and hopeful, and on the 12th of July, according to Dr. Domville, appeared better than on any previous day, and was led to indulge the hope that he would shortly be sufficiently restored to make a journey homeward or elsewhere. It was otherwise ordered. The great shadow was fast sweeping over him.

At his usual hour on that day, about five o'clock, he ate as hearty a dinner as usual, bolstered up in bed, and conversing at the same time with his natural vivacity. Shortly after he had finished, his son, who was in the room, was startled by hearing him asking for something indistinctly and in a peculiar tone; and going to him, inquired if he did not feel well. He said, No — that he felt very faint. These were the last words he ever uttered. He was raised and supported in the bed; the remedies at hand were freely applied, and the physician at once summoned. But the end was at hand. His eyes closed, opened again, but with no apparent recognition; a slight struggle passed over his frame, and consciousness was extinguished forever. A heavy breathing alone showed that life remained. It continued till twenty minutes before two o'clock on the morning of July 13, when it ceased, and all was still.[1]

Among strangers as he was, his illness had awakened a general sympathy, and prompted the kindest attentions. "All classes, from the Governor, Lord Mulgrave, down, proffered during his illness all that their several resources afforded;" and his death, so sudden and unexpected, "cast a gloom over the entire community."[2] A meeting of the Bench and Bar of the city, presided over by the venerable Chief Justice, Sir Brenton Haliburton, was immediately held in testimony of re-

[1] An autopsy, made after the remains had reached Boston, showed that the heart and lungs were entirely healthy. The kidneys were affected with what is known to physicians as "Bright's disease." The brain was not examined.

[2] Letter from Dr. Domville.

spect and sympathy. The sad tidings were at once spread by telegraph over the United States, and everywhere evoked a similar response. The press, of all parties and persuasions, and in every part of the country, was unanimous in its tribute of respect. Meetings were held in many cities and towns in many States, to give utterance to the general sorrow. Among the letters which came from various parts of the country, the following was received from President Buchanan: —

"Washington, 18th July, 1859.

"My dear Sir, — I deeply regret the death of Mr. Choate. I consider his loss, at the present time, to be a great public misfortune. He was an unselfish patriot, — devoted to the Constitution and the Union; and the moral influence of his precept and his example would have contributed much to restore the ancient peace and harmony among the different members of the Confederacy. In him 'the elements were so combined,' that all his acquaintances became his devoted friends. So far as I know, even party malevolence spared him. He was pure and incorruptible; and in all our intercourse I have never known him to utter or insinuate a sentiment respecting public affairs which was not of a high tone and elevated character. Yours, very respectfully,

"James Buchanan."

But nowhere was there a deeper or more prevailing feeling than among the members of the Essex Bar, with whom he began and with whom he closed his labors, and in Boston where his greatest legal triumphs were achieved. Many clergymen noticed the loss in their public discourses. The Mercantile Library Association; the Young Men's Democratic Club; the Massachusetts Historical Society; the Municipal Corporation; the Courts of the State, and of the United States; the Faculty and Alumni of Dartmouth College, where he was graduated just forty years before; the Bar of New York, and many other public bodies, met to express their sense of the loss. The Suffolk Bar at once appointed a committee to draw up and present a series of resolutions; and seldom has there been expression of sincerer or deeper grief than at the meeting which followed. His brethren of the Bar spoke with suffused eye and tremulous lip. Of the many addresses and communications, difficult as it is to discriminate between them on the score of fitness and general excellence, a few may be selected as indicative of the spirit of all.

FROM THE ADDRESS OF HON. CHARLES G. LORING, AT A MEETING OF THE SUFFOLK BAR.

"MR. CHAIRMAN, — I am instructed by the committee appointed at a meeting of which this is an adjournment, to present for its consideration a series of resolutions, the adoption of which they recommend as commemorative of the sense entertained by the members of the Suffolk Bar, of the afflicting event which has recently befallen them. And in discharging that duty, I crave indulgence, as one of the eldest among them, to say a few words upon the sad theme which fills our hearts, though the state of my health would forbid any elaborate attempt at adequate description of the marvellous combination of genius, learning, and ability, characteristic of our departed brother, or any fitting eulogium upon his life and character.

"Of his gifts and attainments as a lawyer and as an orator, not only this bar, but the national forum and the legislative halls of the Commonwealth, and of the United States, have been witnesses; while his scholastic efforts, on many varying occasions, have been heard and read by admiring multitudes, whose remembrance of them is still fresh and full. And if — not relying only upon our own affectionate and perhaps partial judgments — we may trust the general expression of the press throughout the land, it is no unbecoming exaggeration to say that in the death of our friend the nation has lost one of the most gifted and distinguished lawyers and orators, and one of the most refined and accomplished scholars, that have adorned its forensic, legislative, or literary annals.

"Having been for more than twenty years after Mr. Choate came to this bar, his antagonist in forensic struggles, at the least, I believe, as frequently as any other member of it, I may well be competent to bear witness to his peculiar abilities, resources, and manners in professional service. And having, in the varied experiences of nearly forty years, not infrequently encountered some of the giants of the law, whose lives and memories have contributed to render this bar illustrious throughout the land, — among whom I may include the honored names of Prescott, Mason, Hubbard, Webster, and Dexter, and others among the dead, and those of others yet with us, to share in the sorrows of this hour, — I do no in-

justice to the living or the dead in saying, that for the peculiar powers desirable for a lawyer and advocate, for combination of accurate memory, logical acumen, vivid imagination, profound learning in the law, exuberance of literary knowledge and command of language, united with strategic skill, I should place him at the head of all whom I have ever seen in the management of a cause at the bar.

"No one who has not been frequently his antagonist in intricate and balanced cases, can have adequate conception of his wonderful powers and resources; and especially in desperate emergencies, when his seemingly assured defeat has terminated in victory.

"His remembrance of every fact, suggestion, or implication involved in the testimony, of even the remotest admission by his adversary, — his ready knowledge and application of every principle of law called for at the moment, — his long forecast and ever watchful attention to every new phase of the case, however slight, — his incredible power of clear and brilliant illustration, — his unexampled exuberance of rich and glowing language, — his wonderfully methodic arrangement, where method would best serve him, and no less wonderful power of dislocation and confusion of forces, when method would not serve him, — his incredible ingenuity in retreating when seemingly annihilated, and the suddenness and impetuosity with which, changing front, he returned to the charge, or rallied in another and unexpected direction, — and the brilliant fancy, the peerless beauty, and fascinating glow of language and sentiment, with which, when law and facts and argument were all against him, he could raise his audience above them all as things of earth, while insensibly persuading it that the decision should rest upon considerations to be found in higher regions, and that a verdict in his favor was demanded by some transcendent equity independent of them all, at times surpassed all previous conceptions of human ability.

"In manner and deportment at the bar, as everywhere, our deceased brother was not only unexceptionable, but an eminent example of what a lawyer should be. Always dignified and graceful in his bearing toward his professional brethren, and deferential to the court, and always self-possessed in the stormiest seas, — his intensity of language being, as I ever thought,

the effect of a strongly excited imagination, combined with peculiar nervous energy, rather than arising from otherwise deep emotions or excited feelings — he rarely permitted himself to indulge in personalities, and never in those of an offensive and degrading nature, the indulgence of which is ever to be deplored, as alike discreditable to the individual and the profession, of which, for the time being, every advocate should feel himself to be the public representative.

"Nor can I leave this theme without thus publicly reaffirming, what it has been my constant pleasure to say of him throughout all our long years of exasperating conflicts, that he was the best tempered and most amiable man in controversy whom I ever encountered; nor will I hesitate to add that his example has at times winged the arrow of self-reproach that it was not better followed.

"Of Mr. Choate's power and attainments as a scholar, so conspicuous and extensive, I forbear to speak further than to say that the bar of the whole country owes to him the debt of gratitude for exhibiting an example so illustrious of the strength, dignity, and beauty which forensic discussion may draw from the fields of literature and art, with whose treasures he often adorned his arguments in rich exuberance, though never with the slightest savor of pedantry or affectation.

"We have fought many hardly contested forensic fields, but ever met, as I trust and believe, on neutral ground, in mutual, cordial good-will — and many are the delightful hours I have passed in his society — in the enjoyment of his genial nature, fascinating exuberance of fancy and learning, and exquisite wit; but the silver cord is loosed, the golden bowl is broken, and the wheel broken at the cistern; and it is only left for me to lay a worthless, fading chaplet on his grave."

REMARKS OF RICHARD H. DANA, JR., ESQ.

"MR. CHAIRMAN, — By your courtesy, and the courtesy of this bar, which never fails, I occupy an earlier moment than I should otherwise be entitled to; for the reason, that in a few hours I shall be called upon to take a long leave of the bar and of my home. I cannot do that, Sir, — I cannot do

that, without rising to say one word of what I know and feel upon this sad loss.

"The pressure which has been upon me in the last few days of my remaining here, has prevented my making that kind of preparation which the example of him whom we commemorate requires of every man about to address a fit audience upon a great subject. I can only speak right on what I do feel and know.

"'The wine of life is drawn.' The 'golden bowl is broken.' The age of miracles has passed. The day of inspiration is over. The Great Conqueror, unseen and irresistible, has broken into our temple and has carried off the vessels of gold, the vessels of silver, the precious stones, the jewels, and the ivory; and, like the priests of the Temple of Jerusalem, after the invasion from Babylon, we must content ourselves, as we can, with vessels of wood and of stone and of iron.

"With such broken phrases as these, Mr. Chairman, perhaps not altogether just to the living, we endeavor to express the emotions natural to this hour of our bereavement. Talent, industry, eloquence, and learning there are still, and always will be, at the Bar of Boston. But if I say that the age of miracles has passed, that the day of inspiration is over, — if I cannot realize that in this place where we now are, the cloth of gold was spread, and a banquet set fit for the gods, — I know, Sir, you will excuse it. Any one who has lived with him and now survives him, will excuse it, — any one who, like the youth in Wordsworth's ode,

> 'by the vision splendid,
> Is on his way attended,
> At length . . . . perceives it die away,
> And fade into the light of common day.'

"Sir, I speak for myself, — I have no right to speak for others, — but I can truly say, without any exaggeration, taking for the moment a simile from that element which he loved as much as I love it, though it rose against his life at last, — that in his presence I felt like the master of a small coasting vessel, that hugs the shore, that has run up under the lee to speak a great homeward bound Indiaman, freighted with silks and precious stones, spices and costly

fabrics, with sky-sails and studding-sails spread to the breeze, with the nation's flag at her mast-head, navigated by the mysterious science of the fixed stars, and not unprepared with weapons of defence, her decks peopled with men in strange costumes, speaking of strange climes and distant lands.

"All loved him, especially the young. He never asserted himself, or claimed precedence, to the injury of any man's feelings. Who ever knew him to lose temper? Who ever heard from him an unkind word? And this is all the more strange from the fact of his great sensitiveness of temperament.

"His splendid talents as an orator need no commendation here. The world knows so much. The world knows perfectly well that juries after juries have returned their verdicts for Mr. Choate's clients, and the Court has entered them upon the issues. The world knows how he electrified vast audiences in his more popular addresses; but, Sir, the world has not known, though it knows better now than it did, — and the testimony of those better competent than I am will teach it, — that his power here rested not merely nor chiefly upon his eloquence, but rested principally upon his philosophic and dialectic power. He was the greatest master of logic we had amongst us. No man detected a fallacy so quickly, or exposed it so felicitously as he, whether in scientific terms to the bench, or popularly to the jury; and who could play with a fallacy as he could? Ask those venerated men who compose our highest tribunal, with whom all mere rhetoric is worse than wasted when their minds are bent to the single purpose of arriving at the true results of their science, — ask them wherein lay the greatest power of Rufus Choate, and they will tell you it lay in his philosophy, his logic, and his learning.

"He was, Sir, in two words, a unique creation. He was a strange product of New England. Benjamin Franklin, John Adams, Samuel Dexter, Daniel Webster, and Jeremiah Mason, seem to be the natural products of the soil; but to me this great man always seemed as not having an origin here in New England, but as if, by the side of our wooden buildings, or by the side of our time-enduring granite, there had risen, like an exhalation, some Oriental structure, with the domes and glittering minarets of the Eastern world. Yet, this beautiful

fabric, so aerial, was founded upon a rock. We know he digged his foundation deep, and laid it strong and sure.

"I wished to say a word as to his wit, but time would fail me to speak of everything. Yet, without reference to that, all I may say would be too incomplete. His wit did not raise an uproarious laugh, but created an inward and homefelt delight, and took up its abode in your memory. The casual word, the unexpected answer at the corner of the street, the remark whispered over the back of his chair while the docket was calling, you repeated to the next man you met, and he to the next, and in a few days it became the anecdote of the town. When as lawyers we met together, in tedious hours, and sought to entertain ourselves, we found we did better with anecdotes of Mr. Choate than on our own original resources.

"Beside his eloquence, his logical power, and his wit, he possessed deep and varied learning. His learning was accurate, too. He could put his hand on any Massachusetts case as quick as the judge who decided it.

"But if I were asked to name that which I regard as his characteristic, — that in which he differed from other learned, logical, and eloquent men of great eminence, — I should say it was his æsthetic nature.

"Even under the excitement of this moment, I should not compare his mind in the point of mere force of understanding (and, indeed, he would not have tolerated such a comparison) with Daniel Webster; and yet I think we have a right to say that, in his æsthetic nature, he possessed something to which the minds of Franklin, Adams, Dexter, Mason, and Webster, were strangers.

"But I ask pardon of the bar. I am not desirous of making these comparisons.

"I need not say, Sir, Rufus Choate was a great lawyer, a great jurist, a great publicist, but more than all that — and I speak of that which I know — his nature partook strongly of the poetic element. It was not something which he could put on or off, but it was born with him — I will not say died with him, but is translated with him.

"Shakspeare was his great author. I would have defied even the Shakspeare scholar to refer to any passage of Shakspeare that Mr. Choate would not have recognized instantly.

Next to Shakspeare, I think I have a right to say he thought that he owed more to Wordsworth than to any other poet. He studied him before it was the fashion, and before his high position had been vindicated.

"Then he was, of course, a great student of Milton, and after that, I think that those poets who gained the affections of his youth, and wrote when he was young, — Byron, Scott, Coleridge, Southey, — had his affections chiefly; though, of course, he read and valued and studied Spencer and Dryden, and, as a satirist and a maker of epigrams, Pope. This love of poetry with him was genuine and true. He read and studied always, not with a view to make ornaments for his speeches, but because his nature drew him to it. We all know he was a fine Greek and Latin scholar; was accurate; he never made a false quantity. Who ever detected him in a misquotation? He once told me he never allowed a day to go by that he did not write out a translation from some Greek or Latin author. This was one of the means by which he gained his affluence of language. Of Cicero he was a frequent student, particularly of his ethical and philosophical writings. But Greek was his favorite tongue.

"One word more, Sir. It is not so generally known, I suppose, of Mr. Choate, that, certainly during the last ten years of his life he gave much of his thoughts to those noble and elevating problems which relate to the nature and destiny of man, to the nature of God, to the great hereafter; recognizing, Sir, that great truth — so beautifully expressed in his favorite tongue — in sacred writ, Τὰ μὴ βλεπόμενα αἰώνια — things not seen are eternal. He studied not merely psychology; he knew well the great schools of philosophy; he knew well their characteristics, and read their leading men. I suspect he was the first man in this community who read Sir William Hamilton, and Mansell's work on 'The Limits of Religious Thought;' and I doubt if the Chairs of Harvard and Yale were more familiar with the English and German mind, and their views on these great problems, than Mr. Choate.

"He carried his study even into technical theology. He knew its genius and spirit better than many divines. He knew in detail the great dogmas of St. Augustine; and he studied and knew John Calvin and Luther. He knew the

great principles which lie at the foundation of Catholic theology and institutions, and the theology of the Evangelical school; and he knew and studied the rationalistic writings of the Germans, and was familiar with their theories and characteristics.

"With all those persons whom he met and who he felt, with reasonable confidence, had sufficient elevation to value these subjects, he conversed upon them freely. But beyond this — as to his opinions, his results — I have no right to speak. I only wished to allude to a few of the more prominent of his characteristics; and it is peculiarly gratifying to remember, at this moment, that he had the elevation of mind so to lay hold upon the greatest of all subjects.

"I meant to have spoken of his studies of the English prose writers, among whom Bacon and Burke had his preference. But he read them all, and loved to read them all; from the scholastic stateliness of Milton, warring for the right of expressing thoughts for all ages, to the simplicity of Cowper's Letters.

"But all this is gone for us! We are never to see him again in the places that knew him. To think that he, of all men, who loved his home so, should have died among strangers! That he, of all men, should have died under a foreign flag! I can go no further. I can only call upon all to bear witness now, and to the next generation, that he stood before us an example of eminence in science, in erudition, in genius, in taste, — in honor, in generosity, in humanity, — in every liberal sentiment, and every liberal accomplishment."

ADDRESS OF HON. BENJAMIN R. CURTIS ON PRESENTING TO THE SUPREME JUDICIAL COURT THE RESOLUTIONS OF THE SUFFOLK BAR.— [Sept. 20, 1859.]

"*May it please your Honor:*

"I have been directed by the Bar of the county of Suffolk, to present to the Supreme Judicial Court certain resolutions adopted by them, upon the decease of their lamented and distinguished brother, Rufus Choate, and to request the Court to have these resolutions entered on record here. They were adopted at a meeting of the members of this bar, held in this place on the 19th day of July last, since which time the Su-

preme Judicial Court is now first in session for the business of the County of Suffolk. With the leave of the Court I will ask the clerk to read the resolutions. [The clerk read the resolutions, which have been published heretofore.]

"This is not the occasion, nor is it devolved on me, to pronounce a eulogy on the subject of these resolutions, whose death in the midst of his brilliant and important career has made so profound an impression on his brethren of the bar and of the community at large. The Court will have noticed that by one of the resolutions I have read, other suitable provision has been made for that tribute of respect to him, and for doing justice to their sense of their own and the public loss. But the relations which Mr. Choate long sustained to this Court have been too conspicuous and too important to me to be wholly silent here respecting them. The bench and the bar are mutually dependent on each other for that coöperation which is essential to the steady, prompt, and successful distribution of justice. Without the assistance and support of a learned, industrious, able, and honest bar, it is not too much to say that no bench in this country can sustain itself, and its most strenuous exertions can result only in a halting and uncertain course of justice. Without a learned, patient, just, and courageous bench, there will not for any long time continue to be a bar fitted for its high and difficult duties.

"When, therefore, one of their number, who for many years has exerted his great and brilliant powers in this forum, has been removed by death, we feel that in its annunciation to this Court, we make known a fact of importance to itself, and that we may be sure of its sympathy, and of its appreciation of what is indeed a common loss. You have witnessed his labors and know how strenuous, how frequent, how great, how devoted to his duty they have been. You have been instructed by his learning and relieved by his analysis of complicated controversies. You have doubtless been delighted by his eloquence and informed and interested by the fruits of his rich and liberal culture. And when his brethren of the bar come here to make known their sense of their loss, they cannot be unmindful that to you also it is a loss, not in one day to be repaired.

"We are aware that it has sometimes been thought, and by

the thoughtless or inexperienced often said, that from his lips 'With fatal sweetness elocution flowed.' But they who have thought or said this, have but an imperfect notion of the nature of our judicial controversies, or of the ability for the discovery of truth and justice which may be expected here.

"Such persons begin with the false assumption that in the complicated cases which are brought to trial here, one party is altogether right and the other altogether wrong. They are ignorant, that in nearly all cases there is truth and justice and law on both sides; that it is for the tribunal to discover how much of these belongs to each, and to balance them, and ascertain which preponderates; and that so artificial are the greater portion of our social rights, and so complex the facts on which they depend, that it is only by means of such an investigation and decision that it can be certainly known on which side the real justice is. That, consequently, it is the duty of the advocate to manifest and enforce all the elements of justice, truth, and law which exist on one side, and to take care that no false appearances of those great realities are exhibited on the other. That while the zealous discharge of this duty is consistent with the most devoted loyalty to truth and justice, it calls for the exertion of the highest attainments and powers of the lawyer and the advocate, in favor of the particular party whose interests have been intrusted to his care. And if from eloquence and learning and skill and laborious preparation and ceaseless vigilance, so preëminent as in Mr. Choate, there might seem to be danger that the scales might incline to the wrong side, some compensation would be made by the increased exertion to which that seeming danger would naturally incite his opponents; and I am happy to believe, what he believed, that as complete security against wrong as the nature of human institutions will permit, has always been found in the steadiness, intelligence, love of justice, and legal learning of the tribunal by which law and fact are here finally determined.

"I desire, therefore, on this occasion, and in this presence, and in behalf of my brethren of this bar, to declare our appreciation of the injustice which would be done to this great and eloquent advocate by attributing to him any want of loyalty to truth, or any deference to wrong, because he employed all his great powers and attainments, and used to the utmost his

consummate skill and eloquence, in exhibiting and enforcing the comparative merits of one side of the cases in which he acted. In doing so he but did his duty. If other people did theirs, the administration of justice was secured.

"A trial in a court of justice has been fitly termed a drama in which the actors, the events, and the passions were all realities; and of the parts which the members of the legal profession play therein, it was once said, by one who, I think, should have known better, that they are brawlers for hire. I believe the charge can have no general application — certainly not to those who, within my experience, have practised at this bar, where good manners have been as common as good learning. At all events, he of whom I speak was a signal example that all lawyers are not brawlers.

"For, among other things most worthy to be remembered of him, he showed, in the most convincing manner, that forensic strife is consistent with uniform personal kindness and gentleness of demeanor; that mere smartness, or aggressive and irritating captiousness, have nothing to do with the most effective conduct of a cause; that the business of an advocate is with the law and the evidence, and not in provoking or humbling an opponent; that wrangling, and the irritations which spring from it, obstruct the course of justice; and are indeed twice cursed, for they injure him who gives and him who receives.

"I am sure I shall have the concurrence of the Court when I say, that among all Mr. Choate's extraordinary gifts of nature and graces of art, there was nothing more remarkable than the sweetness of his temper and the courtesy of his manners, both to the bench and the bar. However eager might be the strife, however exhausting the toil, however anxious the care, — these were never lost. The recollection of them is now in all our hearts.

"I need not repeat that I shall make no attempt to draw even an outline of the qualities and attainments and powers of this great advocate. Under any circumstances I should distrust my own ability for the work, and as I have already said, it is not expected of me here.

"I have simply to move this Honorable Court to receive these resolutions, and direct them to be entered of record."

In accordance with the vote of the Suffolk Bar, the resolutions were presented to the United States District Court by the District Attorney, and the following reply was made by Mr. Justice Sprague: —

"Notwithstanding the time that has elapsed since the death of Mr. Choate, and the numerous demonstrations of respect by the bar, by judicial tribunals, deliberative bodies, and popular assemblies, still it is proper that such an event should not pass unnoticed in this court. Others have spoken fully and eloquently of his eminence and excellence in various departments; we may here at least appropriately say something of him as a lawyer and an advocate. His life was mainly devoted to the practice of his profession, and this court was the scene of many of his greatest efforts and highest achievements. I believe him to have been the most accomplished advocate that this country has produced. With extraordinary genius he united unremitted industry, devoted almost exclusively to the law, and to those literary studies which tend most directly to accomplish and perfect the orator and the advocate. The result was wonderful. His command of language was unequalled. I certainly have heard no one who approached him in the richness of his vocabulary. This wealth he used profusely, but with a discrimination, a felicity of expression, and an ease and flow, which was truly marvellous. Although to the careless or unintelligent hearer his words would sometimes seem to be in excess, yet to the attentive and cultivated every word had its appropriate place and its shade of meaning, conducing more or less to the perfection of the picture. To those who heard Mr. Choate for the first time, it would seem as though this ready outpouring of choice and expressive language must be the result of special preparation. But those who have heard him often, especially in those unforeseen emergencies which so frequently arise in the trial of causes, knew that the stream, which was so full and clear and brilliant, gushed forth from a fountain as exhaustless as Nature.

> 'Rusticus expectat dum defluat amnis,
> At ille labitur, et labetur in omne volubilis ævum.'

"But it is not to be understood by any means that Mr. Choate's highest merit consisted in his rhetoric. That, indeed,

was the most striking. But those who had most profoundly considered and mastered the subject, saw that the matter of his discourse, the thought, was worthy of the drapery with which it was clothed. His mind was at once comprehensive and acute. No judicial question was too enlarged for its vision, and none too minute for its analysis. To the Court he could present arguments learned, logical, and profound, or exquisitely refined and subtle, as the occasion seemed to require. But it was in trials before a jury that he was preëminent. Nothing escaped his vigilance, and nothing was omitted that could contribute to a verdict for his client. His skill in the examination of witnesses was consummate. I have never seen it equalled. The character of the jury, individually and collectively, was not overlooked, and their opinions and prejudices were not only respected, but soothed and conciliated with the utmost tact and delicacy. His quickness of apprehension and untiring application of all his energies to the cause in hand, gave him complete mastery of his materials. His self-possession was perfect. However suddenly the aspect of his cause might be clouded by unexpected developments, he was never disconcerted. He had wonderful fertility of resources, which were always at instant command, and seemed to multiply with the difficulties which called them forth. Whatever the course previously marked out, or however laboriously a position had been fortified, they were without hesitation abandoned the moment that a new exigency rendered it expedient to take other grounds, and the transition was often effected with such facility and adroitness that his opponent found himself assailed from a new quarter before he had suspected a change of position.

"In his arguments, not only was each topic presented in all its force, but they were all arranged with artistic skill, so as mutually to sustain and strengthen each other, and present a harmonious and imposing whole. He usually began his address to the jury with a rapid and comprehensive view of the whole trial, in which he grouped and made strikingly prominent the circumstances which would make the strongest impression of the fairness of his client and the justness of his cause; thus securing the sympathy and good wishes of the jury, while he should take them with him through that fulness

of detail and that searching analysis which was sure to follow. However protracted his arguments, they were listened to throughout with eager attention. His matter, manner, and diction, created such interest and pleasure in what was uttered, and such expectation of new and striking thoughts and expressions to come, that attention could not be withdrawn. With a memory stored with the choicest literature of our own and other languages, and a strong, vivid, and prolific imagination, his argument was rarely decked with flowers. It presented rather the grave and gorgeous foliage of our resplendent autumn forest, infinite in richness and variety, but from which we should hardly be willing to spare a leaf or a tint. Such was his genius, his opulence of thought and intenseness of expression, that we involuntarily speak of him in unmeasured and unqualified terms.

"The characteristic which perhaps has been most dwelt upon by those who have spoken of Mr. Choate, was his invincible good temper. This especially endeared him, not only to his brethren of the bar, but, also, to the bench. Anxious, earnest, and even vehement, in his advocacy, and sometimes suffering from disease, still no vicissitude or vexations of the cause, or annoyance from opponents, could infuse into his address any tinge of bitterness, or cause him for a moment to forget his habitual courtesy and kindness. He never made assaults upon opposing counsel, and if made on him, they were repelled with mildness and forbearance. If, indeed, his opponent sometimes felt the keen point of a pungent remark, it seemed rather to have slipped from an overfull quiver than to have been intentionally hurled. This abstinence was the more meritorious, because the temptation of superabundant ability was not wanting.

"We can hardly measure his power for evil if he had studied the language of offence, and turned his eloquence into the channels of vituperation. But against this perversion he was secured by his kindly nature. I am sure that it would have been to him a source of anguish to believe that he had inflicted a wound which rankled in the breast of another.

"No man was more exempt from vanity. He seemed to have no thought for himself, but only for his client and his cause. The verdict was kept steadily in view. His most

brilliant efforts had no indication of self-exhibition or display. Magnificent as they were, they seemed to be almost involuntary outpourings from a fulness of thought and language that could not be repressed. From feeling, reflection, and habit, he was a supporter of law, and of that order which is the result of its regular administration. He was truly a friend of the Court, and his manner to them was invariably respectful and deferential. He took an enlightened view of their duties, and appreciated their difficulties; and received their judgments, even when adverse to his wishes, if not always with entire acquiescence, at least with candor and graceful submission. We cannot but sympathize with the bar in a bereavement which has taken from us such an associate and friend, by whom the Court has been so often enlightened and aided in their labors, and whose rare gifts contributed to make the 'light of jurisprudence gladsome.'"

On Friday, the 22d of July, a public meeting of the citizens of Boston was held in Faneuil Hall. The darkened windows, the burning gas-lights, the pillars and galleries covered with mourning drapery, the heavy festoons stretching from the centre of the ceiling to the capitals of the pillars, the quiet crowd weighed down as by a general calamity, all spoke the one language of bereavement and grief. Addresses were made by many distinguished persons, and among others, by Mr. Everett, who spoke as follows: —

ADDRESS OF MR. EVERETT.

"MR. MAYOR and FELLOW-CITIZENS,—I obey the only call which could with propriety have drawn me at this time from my retirement, in accepting your invitation to unite with you in the melancholy duties which we are assembled to perform. While I speak, Sir, the lifeless remains of our dear departed friend are expected; it may be have already returned to his bereaved home. We sent him forth, but a few days since, in search of health; the exquisite bodily organization over-tasked and shattered, but the master intellect still shining in unclouded strength. Anxious, but not desponding, we sent him forth, hoping that the bracing air of the ocean, which he greatly loved, the respite from labor, the change of scene, the cheerful inter-

course which he was so well calculated to enjoy with congenial spirits abroad, would return him to us refreshed and renovated; but he has come back to us dust and ashes, a pilgrim already on his way to

> 'The undiscovered country, from whose bourne
> No traveller returns.'

"How could I refuse to bear my humble part in the tribute of respect which you are assembled to pay to the memory of such a man! — a man not only honored by me, in common with the whole country, but tenderly cherished as a faithful friend, from the morning of his days, and almost from the morning of mine, — one with whom through life I was delighted to take sweet counsel, for whom I felt an affection never chilled for a moment, during forty years since it sprung up. I knew our dear friend, Sir, from the time that he entered the Law School at Cambridge. I was associated with him as one of the Massachusetts delegation in the House of Representatives of the United States, between whom and myself there was an entire community of feeling and opinion on all questions of men and measures; and with whom, in these later years, as his near neighbor, and especially when sickness confined him at home, I have enjoyed opportunities of the most intimate social intercourse.

"Now that he is gone, Sir, I feel that one more is taken away of those most trusted and loved, and with whom I had most hoped to finish the journey; nay, Sir, one whom, in the course of nature, I should have preceded to its end, and who would have performed for me the last kindly office, which I, with drooping spirit, would fain perform for him.

"But although with a willing heart I undertake the duty you have devolved upon me, I cannot but feel how little remains to be said. It is but echoing the voice, which has been heard from every part of the country, — from the Bar, from the Press, from every Association by which it could with propriety be uttered, — to say that he stood at the head of his profession in this country.

"If, in his own or in any other part of the Union, there was his superior in any branch of legal knowledge, there was certainly no one who united, to the same extent, profound

learning in the law, with a range almost boundless of miscellaneous reading, reasoning powers of the highest order, intuitive quickness of perception, a wariness and circumspection never taken by surprise, and an imagination, which rose, on a bold and easy wing to the highest heaven of invention. These powers, trained by diligent cultivation, — these attainments, combined and applied with sound judgment, consummate skill and exquisite taste, necessarily placed him at the head of the profession of his choice; where, since the death of Mr. Webster, he shone without a rival.

"With such endowments formed at the best schools of professional education, exercised with unwearied assiduity, through a long professional life, under the spur of generous ambition, and the heavy responsibility of an ever-growing reputation to be sustained, — if possible to be raised, — he *could* fill no second place.

"But he did not, like most eminent jurists, content himself with the learning or the fame of his profession. He was more than most men in any profession, in the best sense of the word, a man of letters. He kept up his Academical studies in after-life. He did not think it the part either of wisdom or good taste to leave behind him at school, or at college, the noble languages of the great peoples of antiquity; but he continued through life to read the Greek and Roman classics.

"He was also familiar with the whole range of English literature; and he had a respectable acquaintance with the standard French authors. This wide and varied circle of reading not only gave a liberal expansion to his mind, in all directions, but it endowed him with a great wealth of choice but unstudied language, and enabled him to command a richness of illustration, whatever subject he had in hand, beyond most of our public speakers and writers. This taste for reading was formed in early life. While he was at the Law School at Cambridge, I was accustomed to meet him more frequently than any other person of his standing in the alcoves of the library of the University.

"As he advanced in years, and acquired the means of gratifying his taste in this respect, he formed a miscellaneous collection, probably as valuable as any other in Boston; and he was accustomed playfully to say that every Saturday after-

noon, after the labor of the week, he indulged himself in buying and bringing home a new book. Thus reading with a keen relish, as a relaxation from professional toil, and with a memory that nothing worth retaining escaped, he became a living storehouse of polite literature, out of which, with rare felicity and grace, he brought forth treasures new and old, not deeming these last the least precious.

"Though living mainly for his profession, Mr. Choate engaged to some extent in public life, and that at an early age, as a member of the Legislature of Massachusetts, and of the National House of Representatives, and in riper years as a Senator of the United States, as the successor of Mr. Webster, whose entire confidence he enjoyed, and whose place he, if any one, was not unworthy to fill. In these different positions, he displayed consummate ability. His appearance, his silent demeanor, in either House of Congress commanded respect. He was one of the few whose very presence in a public assembly is a call to order.

"In the daily routine of legislation he did not take an active part. He rather shunned clerical work, and consequently avoided, as much as duty permitted, the labor of the committee-room; but on every great question that came up while he was a member of either House of Congress, he made a great speech; and when he had spoken, there was very little left for any one else to say on the same side of the question. I remember on one occasion, after he had been defending, on broad national grounds, the policy of affording a moderate protection to our native industry, showing that it was not merely a local but a national interest, and seeking to establish this point by a great variety of illustrations, equally novel and ingenious, a Western member, who had hitherto wholly dissented from this view of the subject, exclaimed that he 'was the most persuasive speaker he had ever heard.'

"But though abundantly able to have filled a prominent place among the distinguished active statesmen of the day, he had little fondness for political life, and no aptitude whatever for the out-doors management, — for the electioneering legerdemain, — for the wearisome correspondence with local great men, —and the heart-breaking drudgery of franking cart-loads of speeches and public documents to the four winds, — which

are necessary at the present day to great success in a political career. Still less adroit was he in turning to some personal advantage whatever topic happens for the moment to attract public attention; fishing with ever freshly-baited hook in the turbid waters of an ephemeral popularity. In reference to some of the arts by which political advancement is sought and obtained, he once said to me, with that well-known characteristic look, in which sadness and compassionate pleasantry were about equally mingled, 'They did not do such things in Washington's day.'

"If ever there was a truly disinterested patriot, Rufus Choate was that man. In his political career there was no shade of selfishness. Had he been willing to purchase advancement at the price often paid for it, there was never a moment, from the time he first made himself felt and known, that he could not have commanded anything which any party could bestow. But he desired none of the rewards or honors of success. On the contrary, he not only for his individual self, regarded office as a burden—an obstacle in the way of the cultivation of his professional and literary tastes—but he held, that of necessity, and in consequence of the strong tendency of our parties to assume a sectional character, conservative opinions, seeking to moderate between the extremes which agitate the country, must of necessity be in the minority; that it was the 'mission' of men who hold such opinions, not to fill honorable and lucrative posts which are unavoidably monopolized by active leaders, but to speak prudent words on great occasions, which would command the respect, if they do not enlist the sympathies, of both the conflicting parties, and thus insensibly influence the public mind. He comprehended and accepted the position; he knew that it was one liable to be misunderstood, and sure to be misrepresented at the time; but not less sure to be justified when the interests and passions of the day are buried, as they are now for him, beneath the clods of the valley.

"But this ostracism, to which his conservative opinions condemned him, produced not a shade of bitterness in his feelings. His patriotism was as cheerful as it was intense. He regarded our confederated Republic, with its wonderful adjustment of State and Federal organization — the States

bearing the burden and descending to the details of local administration, the General Government moulding the whole into one grand nationality, and representing it in the family of nations — as the most wonderful phenomenon in the political history of the world.

"Too much a statesman to join the unreflecting disparagement with which other great forms of national polity are often spoken of in this country, he yet considered the oldest, the wisest, and the most successful of them, the British Constitution, as a far less wonderful political system than our Confederated Republic. The territorial extent of the country; the beautiful play into each other of its great commercial, agricultural, and manufacturing interests; the material prosperity, the advancement in arts and letters and manners, already made; the capacity for further indefinite progress in this vast theatre of action in which Providence has placed the Anglo-American race, — stretching from the Atlantic to the Pacific, from the Arctic circle to the tropics, — were themes on which he dwelt as none but he could dwell; and he believed that with patience, with mutual forbearance, with a willingness to think that our brethren, however widely we may differ from them, may be as honest and patriotic as ourselves, our common country would eventually reach a height of prosperity of which the world as yet has seen no example.

"With such gifts, such attainments, and such a spirit, he placed himself, as a matter of course, not merely at the head of the jurists and advocates, but of the public speakers of the country. After listening to him at the bar, in the Senate, or upon the academic or popular platform, you felt that you had heard the best that could be heard in either place. That mastery which he displayed at the forum and in the deliberative assembly was not less conspicuous in every other form of public address.

"As happens in most cases of eminent jurists and statesmen, possessing a brilliant imagination, and able to adorn a severe course of reasoning with the charms of a glowing fancy and a sparkling style, it was sometimes said of him, as it was said before him of Burke and Erskine, of Ames and Pinckney, — that he was more of a rhetorician than a logician; that he dealt in words and figures of speech more than in facts

or arguments. These are the invidious comments by which dull or prejudiced men seek to disparage those gifts which are farthest from their own reach.

"It is, perhaps, by his discourses on academical and popular occasions that he is most extensively known in the community, as it is these which were listened to with delighted admiration by the largest audiences. He loved to treat a pure literary theme; and he knew how to throw a magic freshness — like the cool morning dew on a cluster of purple grapes — over the most familiar topics at a patriotic celebration. Some of these occasional performances will ever be held among the brightest gems of our literature. The eulogy on Daniel Webster at Dartmouth College, in which he mingled at once all the light of his genius and all the warmth of his heart, has, within my knowledge, never been equalled among the performances of its class in this country for sympathetic appreciation of a great man, discriminating analysis of character, fertility of illustration, weight of sentiment, and a style at once chaste, nervous, and brilliant. The long sentences which have been criticised in this, as in his other performances, are like those which Dr. Channing admired and commended in Milton's prose,— well compacted, full of meaning, fit vehicles of great thoughts.

"But he does not deal exclusively in those ponderous sentences. There is nothing of the artificial, Johnsonian balance in his style. It is as often marked by a pregnant brevity as by a sonorous amplitude. He is sometimes satisfied, in concise epigrammatic clauses, to skirmish with his light troops and drive in the enemy's outposts. It is only on fitting occasions, when great principles are to be vindicated and solemn truths told, when some moral or political Waterloo or Solferino is to be fought, — that he puts on the entire panoply of his gorgeous rhetoric. It is then that his majestic sentences swell to the dimensions of his thought,—that you hear afar off the awful roar of his rifled ordnance, and—when he has stormed the heights and broken the centre and trampled the squares and turned the staggering wing of his adversary, — that he sounds his imperial clarion along the whole line of battle, and moves forward with all his hosts in one overwhelming charge.

"Our friend was, in all the personal relations of life, the most unselfish and disinterested of men. Commanding, from

an early period, a valuable clientage, and rising rapidly to the summit of his profession, and to the best practice in the courts of Massachusetts, and in the Supreme Court of the United States, with no expensive tastes or habits, and a manner of life highly unostentatious and simple, advancing years overtook him with but slender provision for their decline. He reaped little but fame, where he ought to have reaped both fame and fortune. A career which in England would have been crowned with affluence, and probably with distinguished rank and office, found him at sixty chained to the treadmill of laborious practice.

"He might, indeed, be regarded as a martyr to his profession. He gave to it his time, his strength, and neglecting due care of regular bodily exercise and occasional entire relaxation, he might be said to have given to it his life. He assumed the racking anxieties and feverish excitements of his clients. From the courts, where he argued the causes intrusted to him, with all the energy of his intellect, rousing into corresponding action an overtasked nervous system, these cares and anxieties followed him to the weariness of his midnight vigils, and the unrest of his sleepless pillow. In this way he led a long professional career, worn and harassed with other men's cares, and sacrificed ten added years of active usefulness to the intensity with which he threw himself into the discharge of his duties in middle life.

"There are other recollections of our friend's career, other phases of his character, on which I would gladly dwell; but the hour has elapsed, and it is not necessary. The gentlemen who have preceded me, his professional brethren, his pastor, the press of the country, generously allowing past differences of opinion to be buried in his grave, have more than made up for any deficiency in my remarks. His work is done, — nobly, worthily, done. Never more in the temples of justice, — never more in the Senate chamber, — never more in the crowded assembly, — never more in this consecrated hall, where he so often held listening crowds in rapt admiration, shall we catch the unearthly glance of his eye, or listen to the strange sweet music of his voice. To-morrow we shall follow him, — the pure patriot, — the consummate jurist, — the eloquent orator, — the honored citizen, — the beloved friend, to

the last resting place; and who will not feel, as we lay him there, that a brighter genius and a warmer heart are not left among living men!"

During this meeting, the steamboat which brought the remains from Nova Scotia came to anchor in the harbor. The next morning, Saturday, July 23, a private funeral service was held at the house of the deceased, in Winthrop Place, and the body was then taken to the Essex Street Church, where a funeral address was made by Rev. Dr. Nehemiah Adams. The service was attended by the public functionaries of the State, by the judges of the court, the members of the bar, and a large concourse of people. These ceremonies over, the body was borne, with every testimonial of respect, — the booming of minute guns, the tolling of bells, and the waving of flags hung at half-mast, — to its last resting place, under the shadows of Mount Auburn.

CHAPTER XI.

Letter from Hon. John H. Clifford — Reminiscences of Mr. Choate's Habits in his Office — Thoroughness of Preparation of Cases — Manner of Legal Study — Intercourse with the Younger Members of the Bar — Manner to the Court and the Jury — Charges and Income — Vocabulary — Wit and Humor — Anecdotes — Eloquence — Style — Note from Rev. Joseph Tracy — Memory — Quotations — Fondness for Books — Reminiscences by a Friend — Life at Home — Conversation — Religious Feeling and Belief.

IT may be proper to present, in this concluding chapter, a few additional testimonials, and briefly to indicate some of the striking characteristics of Mr. Choate, for which a place could not be found in the body of the memoir without interrupting the course of the narrative.

FROM HON. JOHN H. CLIFFORD.

"New Bedford, Mass., October 26th, 1860.

"MY DEAR SIR, — It gives me pleasure to comply with your request, and say an unstudied word of remembrance of my professional associate and friend.

"I do this the more readily, as I was prevented by circumstances from participating in the public manifestations of respect and sorrow, from my brethren of the bar, and other associations, with which we were connected, which followed immediately upon his death.

"In reply to your specific inquiry, respecting the selection to be made from Mr. Choate's arguments, as the most valuable for illustration of his powers and *quality* as an advocate, I can only say, that a very inadequate and unsatisfactory impression of either can be derived from any of the meagre reports of his great efforts at the bar. To those who were familiar with his wonderful genius, his wealth of learning, his genial humor, and his unparalleled combinations of the most brilliant rhetoric with the most massive logic, the attempts that have been made to reproduce them have been painfully disproportionate to their subject; while upon others they can hardly fail to produce a belittling and disparaging impression of his great powers. I fear that, in this respect, his fame must share the melancholy fate of most great lawyers and advocates, to be taken upon trust, and as a tradition of posterity, rather than to be verified to it by its own critical judgment of his recorded labors.

"In regard to Mr. Choate's 'theory of advocacy,' there has been much

ignorant and unconsidered criticism since his death, as there was, indeed, during his life. In the remarks of Judge Curtis to the Supreme Judicial Court of Massachusetts, upon the presentation of the resolutions adopted by the Bar at the time of Mr. Choate's decease, there is a just and most satisfactory exposition of the true theory of advocacy. Assuming the views expressed in that admirable address to have been those entertained by Mr. Choate, as I have no doubt they were in substance, it seems to me that the flippant denunciations of what has been called the 'unscrupulousness of his advocacy' are the merest cant — as unsound and untenable in the view which they imply of a lawyer's duty, as they are unjust to his memory.

"I had opportunities of observation for many years, of the practical application by him of his views of professional obligation in this respect, both in civil and criminal cases, almost always as an adversary, though occasionally as an associate. I believe that a conscientious conviction of his duty led him, at times, to accept retainers in the latter class of cases, when the service to be performed was utterly repugnant and distasteful to him. As a striking confirmation of this opinion, I may state that, in 1853, when I vacated the office of Attorney-General, to assume the administration of the Executive Department of the government, it was intimated to me by a common friend that the place would be agreeable to Mr. Choate. I, of course, had no hesitation in promptly availing myself of this opportunity of making the conceded *chief* of the Bar its official head. Upon tendering to him the appointment, which was unhesitatingly and gracefully accepted, I learned that one of the principal inducements leading him to assume the post, while he was under the weightiest pressure of private practice, was the avenue of escape which it afforded him from the defence of criminal causes. Regarding the profession of his choice as an *office*, and not as a *trade*, he felt that he was not at liberty, when pressed by the friends of parties accused of crime, to refuse his services to submit their defence to the proper tribunal, merely because this department of professional labor was not agreeable to him, while the acceptance of the post of public prosecutor would give him an honorable discharge from this field of practice.

"It is rare for a person whose life, like his, had been spent almost exclusively in the practice of his profession, to secure the affectionate attachment of so large and diversified a body of friends. Much as he was devoted to books, he saw more of the various classes of men, from every one of which there were sincerer mourners over his bier, than falls to the lot of most great lawyers. This arose from his varied and extensive clientage, and the broad range of his practice. An English barrister, who is confined almost exclusively to a particular circuit, and under their system of minute subdivision of labor, frequently to one class of causes, can with difficulty comprehend the life of one who, like Mr. Choate, was familiar with all the judicial tribunals of a country like ours, from the highest to the lowest, Federal and State, and with every department of the law, in all its diversified relations to 'the business and bosoms of men.' Still more difficult is it for him to conceive how a practitioner in such a wide field as this, could be, as Mr. Choate incontestably was, *facile princeps*, wherever he appeared.

"The highest proof of his superiority, is to be found in the united testimony of those who 'stood nearest to him.' And no one who witnessed the manifestations of respect for his great powers, and of affection for the man, which were exhibited by his brethren of the bar, upon receiving the sad intelligence that he was to be with them no more on earth, can doubt the sincerity with which they assigned to him the first place among this generation of American lawyers.

"For myself, I count it as one of the privileges and felicities of my professional life, that Rufus Choate was my temporary associate and friend.

"I am, dear Sir, with sincere respect, truly yours,

"PROF. S. G. BROWN. JOHN H. CLIFFORD."

Mr. Choate's business was almost wholly connected with cases in court. It might be said that he had no conveyancing, almost no drawing up of contracts or wills, and very rare occasions for giving written opinions. Comparatively few cases were commenced in the office. Most of his business was the result of outside retainers in cases commenced, or to be commenced, by other counsel, or in defending cases already commenced.

Of Mr. Choate's habits in his office and in the courts, a memorandum, by his son-in-law and partner, Joseph M. Bell, Esq., will afford the best possible information.

"When I went to him," says Mr. Bell, "in January, 1849, we took an office at 7½ Tremont Row, then entirely out of the range of the fraternity. His habits then were these: — Regularly at nine o'clock (or, if to go into court, a trifle earlier) he came to the office, and spent the morning there. Generally his room was filled with clients. If not, he was busily engaged in preparing his cases for trial or argument; or, if no immediate necessity existed for this, a careful examination of the latest text-books and reports was made, or a course of study, already marked out, pursued. He was rarely idle for a moment, and by this I mean that he was rarely without book and pen in hand. He studied pen in hand, rarely sitting down with book alone. He had an old, high, pine desk, such as were in lawyers' offices many years ago, which he specially prized. It had been used by Judge Prescott, — the father of William H. Prescott, — in Salem, and perhaps by other lawyers before him. Upon its top there was a row of pigeonholes for papers. A tall counting-house chair, with the front legs some three inches shorter than the back ones, so as to

incline the seat forward, enabled him to keep in nearly a standing position at the desk, and there, and in that position, come upon him when you might, he was to be found, pen in hand, hard at work. He was patient of interruption, beyond any man I ever met. Unless specially engaged upon matters which brooked no delay, his time and learning were at the disposal of the poorest and most ignorant. It was very rarely indeed that I heard him say to any one, 'I cannot attend to you *now*.' The old desk, alluded to, I succeeded in getting out of his office; but one not much better took its place. If a person came into his office with a case, his invariable habit, when possible, was to converse with him pen in hand, and write down every particular bearing upon it. If the case involved doubt, as soon as the client had gone, he made, *aut per se aut per alium*, a strict examination of the law, of which he made a careful record. He may be said to have studied all his cases all the time. He never seemed to have one of them out of mind for an instant. If, in reading law, or anything else, *diverso intuitu*, anything occurred which could be useful in any of his numerous cases, down it went upon some of the papers — Greek to the world, but clear to him. And this leads me to say that in all the apparent confusion of his papers, there was the utmost regularity, after his kind. He was a great lover of order, and strove hard for it, but there seemed to be a certain mechanical dexterity of which he was destitute. I think it would have been impossible for him to fold regularly half a dozen sheets of paper. His papers were tied together in a confused mass; but they were all there, and he could find them. Untie and arrange them in order, and he liked it; but the first time the parcel was re-opened by him it returned to its original condition. But this was want of manual dexterity only. He was ever striving to have his office regular and orderly, like other offices, but without effect.[1]

"For a year or so after going in with him, I rarely saw him

[1] He was entirely aware of this himself. Speaking once of the officer known to the English Court of Common Pleas as the Filacer, or Filazier, so called because he files those writs on which he makes out process, he playfully remarked, "there would be little use for such a person in *our* office." And yet he generally could put his hand at once upon what he wanted.

at the office in the afternoon. He was in the habit of going to the Athenæum, and other places where books were to be found. After that time, he was at the office afternoon as well as forenoon, unless occupied in the law outside. His cheerfulness was constant; and he never appeared in greater spirits than when everything seemed tangled and snarled beyond extrication. Little things sometimes troubled him; real difficulties, never. He did and wanted everything done on the instant; and if this could not be brought about, he would often seem to lose all interest in it. I have often been astonished at his willingness to perform every one's work. That never seemed to trouble him; and it was a rare thing to hear him complain of others. In regard to his court engagements, he was promptitude itself. No one ever knew him a minute behind time, if by possibility he could come at all. He had a method of imparting instruction, peculiar to a race of legal giants now passed away, by short, pithy, or sarcastic and ironical sentences. You were often to determine his meaning rather by what he did not say than from what he did. I have heard him talk an hour in this way; and if one had taken in sober earnest what he said for what he meant, he would have made a slight mistake. The gravest law talk, with one who could understand him, was fun alive.

"With his vast command of language, he delighted to use some expressive slang phrase in familiar conversation. I remember one that tickled him hugely. A man in the office told him a story of some fight that he was a witness of; and after describing it graphically, said, 'And then the stones flew my way, and I *dug*.' He never could resist the use of this last expression, and never used it without laughing heartily. And this reminds me that I rarely — I may say never — heard him laugh out loud. He would throw his head back, open his mouth wide, and draw in his breath with a deep respiratory sound, while his whole face glowed with fun.

"He rarely left his office to pass a half-hour in another's, except on business. He took a great many papers and periodicals at the office, but seldom read one. Sometimes they went into the stove in the original wrappers.

"Mr. Choate's method of preparing his cases for trial and argument, depended so much upon the varying circumstances

of the cases, that it is very difficult to say that he had any particular plan. But this always was his practice, when he had time for it: —

"If for the plaintiff, a strict examination of all the pleadings, if the case had been commenced by others, was immediately made, and so far as practicable, personal examination of the principal witnesses, — accurate study of the exact questions raised by the pleadings, and a thorough and exhaustive preparation of all the law upon those questions. This preparation completed, the papers were laid aside until the day of trial approached. At that time a thorough reëxamination of the facts, law, and pleadings had to be made. He was never content until everything which might by possibility bear upon the case had been carefully investigated, and this investigation had been brought down to the last moment before the trial.

"If for the defence, the pleadings were first examined and reconstructed, if in his judgment necessary, and as careful an examination of the law made as in the other case.

"In his preparation for the argument of a question of law, he could never be said to have finished it until the judgment had been entered by the court. It commenced with the knowledge that the argument was to be made; and from that time to the entry of the judgment, the case never seemed to be out of his mind; and whenever and wherever a thought appropriate to the case occurred to him, it was noted for use. It would often happen that the case was nearly reached for argument at one term of the court; every possible preparation having been made and the brief printed; yet the term would end and the case not come on. The former preparation then made but a starting point for him. At the next term a fuller brief appeared; and this might happen several times. The finished brief of the evening had to be altered and added to in the morning; and it frequently went into the hands of the court with the undried ink of his last citations. If, after argument, a case uncited then was discovered, or if a new view of it occurred to him, the court was instantly informed of it.

"And so in the trial of a case at *nisi prius*. Every intermission called for a full examination of every law book which could possibly bear upon questions already before the court,

or which he purposed to bring before it. No difficulty in procuring a book which treated upon the question before him, ever hindered him; it was a mere question of possibility.

He had a plan for the trial of every case, to which he clung from the start, and to which everything bent. That plan often appeared late in the case, perhaps upon his filing his prayer to the court for special rulings to the jury. But that plan was at any time — no matter how much labor had been put into it — instantly thrown over, and a new one adopted, if, in his judgment, it was better. He bent the whole case to his theory of the law of it; and, if accidentally a new fact appeared which would enable him to use a clearer principle of law, the last from that moment became his case. I remember perfectly an example of his quickness and boldness in this respect. In an insurance case, we were for the plaintiff. A vessel had been insured for a year, with a warranty that she should not go north of the Okhotsk Sea. Within the year she was burned north of the limits of the Okhotsk Sea proper, but south of the extreme limits of some of that sea's adjacent gulfs. The defendant set up that there was no loss within the limits of the policy; and numerous witnesses had been summoned by both parties,—on our side to show that by merchants the Okhotsk Sea was considered to include the bays and gulfs; on the other side, to prove the contrary. A protracted trial was expected, and everything had been prepared. As we were walking to the court-house, he said, 'Why should we prove that we were *not* north of that sea? — why not let them prove that we *were?* What do you think of it?' — 'It seems to be the right way, certainly,' said I. 'Let us do it, — open the case on that idea.' I did so, and put on the mate to prove the burning at a certain time within the year. No cross-examination followed, and we rested our case. The other side were dumfounded. They had expected that we should be at least two days putting in our case on the other theory, and had no witnesses at hand. They fought our plan stoutly; but the court was with us, and they were obliged to submit to a verdict in our favor. The case lasted *one hour*.

"In many cases I have known him to dismiss witnesses that had been summoned for proof of particular facts, because he had changed his plan, and would not require them.

"One of the most striking characteristics of Mr. Choate was the tenacity with which he persisted in trying a case *once commenced*, under no matter what disadvantages. If a case seemed untenable, and indeed always *before suit*, he was very willing to settle. Divorce cases and family disturbances, and suits between friends, he strained every nerve to adjust before they became public, and even after. But when a case was fairly before the court, he seemed absolutely to hate the idea of a compromise, and never felt the case lost so long as there was standing in court. No matter how hopeless seemed the chance of success, he would say, 'It will never do to say die,' and plunge boldly into the trial. And it was astonishing to find him so often successful where there seemed no hope. While a trial was going on in court, every word of every witness was taken down, and every legal incident noted. This was taken home, and before the court opened the next day, arranged and studied, and his argument commenced and kept along with the days of trial, often changed and re-written. He kept loose paper by him in court, on which were jotted down questions for witnesses, and ideas of all kinds connected with the case."

As might be inferred from this, his notes were generally very ample and complete. To a student who was going to take the depositions of some witnesses where he could not be present, he said, "Take down every adjective, adverb, and interjection that the witnesses utter." His brief too, was always full, though in addressing a jury he was entirely untrammelled, and often hardly referred to it. In addressing the court he sometimes seemed to follow his notes closely, almost as if he were repeating them, laying aside page after page as he proceeded.

In determining the theory of his case, he was never satisfied until he had met every supposition that could be brought against it. But he had no love for a theory because it was his own, however great the labor it had cost him, but was perfectly ready to throw it aside for another, when that appeared better. This change of front he sometimes made in the midst of the trial, under the eye of the court, and in the face of a watchful and eager antagonist. He was never more self-

possessed, nor seemed to have his entire faculties more fully at command, nor to exercise a more consummate judgment, than when in the very heat of a strongly contested case, where a mistake would have been fatal. In the preparation of a case he left nothing to chance; and his juniors sometimes found themselves urged to a fidelity and constancy of labor to which they had not been accustomed.

In intercourse with junior counsel, no one could be more unselfish and generous. He assumed their difficulties, protected them if necessary, often insisting to the client that the junior was fully equal to the case, and after the case was won yielding to him a full share of the honor.

"He was the best senior counsel," said an eminent lawyer,[1] "that ever lived. Other men almost always make you feel that you are second; he so made suggestions that you seemed to come to the knowledge of your own motion. If you came to him with a proposition which could not be sustained, instead of saying, 'That's not the law,' he would begin by asking you questions, or by making statements to which you at once assented, till he led you round to a point just the opposite of that from which you started."

Never assuming preëminence, or standing upon his dignity, he was on the kindest and most familiar terms with his brethren at the bar. The morning after his letter to the Whigs of Maine appeared in the newspapers, a brother-lawyer — a Democrat — suddenly opened the door of his office, and saluted him with the question: "Well, Mr. Choate, how was it, — money down, or bond and mortgage?" No one relished such a sally more than he.

During the progress of a trial, though intently watchful of all the proceedings, he was abounding in good nature and courtesy. "If his wit and pleasantry in the court-room," said one of the most eminent of his profession, "could be gathered up, they would be unsurpassed in all the annals of the law." His addresses to the jury were singularly impassioned; every muscle of his frame quivered with emotion; the perspiration stood in drops even upon the hair of his head.[2]

[1] Mr. Justice Lord.

[2] Always after speaking he was obliged to wrap himself up in two or three overcoats to prevent taking cold, and almost always after a strong effort suffered from an attack of sick-headache.

Yet he was always dignified and conciliatory, as if speaking to friends. To witnesses he was unfailingly courteous, seldom severe even with the most reluctant, but drawing from them the evidence by the skill of his examination. To the Bench he was remarkable for deference in manner, and quietness, felicity, and precision in language. I happened once to go into the Supreme Court-room, when not more than a dozen persons were present, and many of them officials, but all the judges were upon the bench, and Mr. Choate was standing at a table before them, arguing a question of law. He stood erect and quiet, made no gesture except a slight movement of the right hand from the wrist, nor changed his position except when necessary to obtain a book for an authority, but spoke for more than an hour in a low, clear, musical voice, with a felicity of language, a logical precision, a succinctness of statement, a constantly expanding and advancing movement of thought, and a gentle, slightly exhilarating warmth of feeling, which I never heard equalled, and which was even more fascinating than his appeals to the jury. His motions and gestures were, as I have said, vehement, but not affected nor ungraceful. They were a part of himself, one with his style and method. The sweep of his arm, the tremulous hand, the rising and settling of his body, the dignified tread, the fascinating eye, the tone, gentle, musical, persuasive, vehement, ringing, never querulous, never bitter — all sprang from the nature of the man, spontaneous and irrepressible. Never was there a speaker less artificial.

Mr. Choate's knowledge of his profession never grew more rapidly and more solidly than during the last ten years of his life. In the midst of ever-increasing labors, he found time for constant and careful study of the *science* of the law. On the appearance of a new volume of the Massachusetts Reports, he was accustomed to take every important case on which he had not been employed, make a full brief upon each side, draw up a judgment, and, finally, compare his work with the briefs and judgments reported. This was a settled habit for many years before he died. To say that he had a high sense of professional honor, would only ascribe to him a virtue that is not rare in the American Bar; yet few, perhaps, have had a clearer or more refined and delicate appre-

hension of the proprieties and ethics of the profession. He held an exalted idea of the office and duties of an advocate. "The order of advocates is as ancient as the office of the judge, as noble as virtue, and as necessary as justice." So wrote the great jurist of France, D'Aguesseau; and so have ever felt the wisest and most upright judges of law and equity.

During the latter part of his career, he was more reluctant to undertake doubtful criminal cases. Though accepting every clear duty of his profession, he held himself more in reserve. This was partly because of his constant and intense occupation, partly because his tastes led him to other branches of the profession, and in part, perhaps, because he had to contend against his own fame, and instinctively shrunk from annoying and vulgar criticism. When solicited to defend Dr. Webster, he argued with the friend who consulted him, that it would be really better for the accused to have other counsel.

Up to the year 1849, notwithstanding his large business, Mr. Choate had been too careless, both in charges and in collections, to realize an adequate return for his services. He seemed, indeed, to be the only person who placed a low estimate upon the value of his own labors. The client almost determined for himself what he should pay, and several cases actually occurred where the advocate rated his services so ridiculously low that the client would not be satisfied until the charges were doubled. The amount of the fee never affected Mr. Choate's willingness to take a case, or the earnestness with which he threw himself into it. It was the case, and not the reward, which stimulated his mind.

On first opening his office he kept no book of accounts. Being, however, at one time, apparently, struck with a sudden fit of economy, he obtained a proper book, and entered, as the first item of an orderly expenditure, the office debtor to one quart of oil, 87½ cents. The next entry was six months later, and closed the record.

He was generous to a fault. Whoever asked, received. Any one, almost literally any one, could draw from him five or ten dollars; and his office was sometimes quite besieged with solicitors of charity. To some objects he gave regularly. Among these was a very worthy man, but indigent, and a confirmed invalid. "On one occasion," says the gentleman

who often acted as the almoner of his bounty, "he requested me to call at his office at the earliest opportunity. After making the usual inquiries about our friend and his sufferings, and expressing his sympathy, he said: 'I believe I have been neglectful of his wants for a year or two past.' Then, with one of his nervous shudders, he seized his pen and filled out a check for fifty dollars; and he would not make the least abatement, though I assured him our friend did not stand in any present need of such a munificent donation."

Many came to borrow of him, and almost always successfully, if he were not himself pressed for money. Of these he frequently took neither note nor obligation of any sort in return, and the transactions were frequently forgotten. When asked why he did not try to collect of his borrowers, "Ah," he replied, "many of them are cologne bottles without any stoppers."

He was, indeed, most indifferent to money; careless of keeping it, and losing, without question, thousands of dollars every year from neglecting to make any charge at all for his services. "I remember," says a gentleman who studied with him, "that one morning he came rushing into his office for $500, remarking, in his sportive way, 'My kingdom for $500; have I got it?' He went to his blue bank-book, looked at it and said, 'Not a dollar, not a dollar,' and was going out, either to borrow or collect, when I stopped him. The old book had been filled, and the teller had given him a new one without entering in it the amount to his credit, the month not being ended when the accounts were usually balanced. I showed him the old book, and there was a balance in his favor of $1200. He looked surprised, and said, 'Thank God.' But if the $1200 had disappeared, he never would have been the wiser."

It could be no surprise, then, to those who knew his habit, that in his early career he accumulated very little property. For the last ten years of his life, through the care of his partner, his affairs were managed with more method, and with growing prosperity. Even then, however, when it became necessary for Mr. Choate himself to fix the scale of his remuneration, it fell about to the old standard, until his junior learned to regulate the amount of their charges by those of the eminent counsel to whom they were generally opposed.

The average annual receipts of his office for the eleven years from 1849 to 1859, inclusive, were nearly $18,000. The largest receipts were in 1852, when they amounted to more than $20,000; in 1855, when they were nearly $21,000; and 1856, when they somewhat exceeded $22,000. In only one year of the eleven did they fall below $13,000. The largest fee Mr. Choate ever received was $2500. An equal one was given, so far as is known, on but four occasions. A fee of from $1500 to $2000 was more frequent; and he once received a retaining fee of $1500. During these eleven years his engagements in actual trials, law arguments, and arguments before the legislature, amounted to a yearly average of nearly seventy.

Always free of his services, there was one which, however great or costly to himself, was always rendered without charge. I refer to his exertions in political contests. He was frequently importuned to receive compensation, as the labor was frequently most wearisome and exhaustive. But as a matter of character, and to keep himself pure from the semblance of stain, and broad and independent in his public course, he uniformly refused. He prided himself on his honor and purity in his relations to the State.

When approaching the argument of a great cause, or the delivery of an important speech, his mind was absolutely absorbed with it. The lights were left burning all night in his library, and after retiring he would frequently rise from his bed, and, without dressing, rush to his desk to note rapidly some thought which flashed across his wakeful mind. This was repeated sometimes ten or fifteen times in a night. Being once engaged in the trial of an important case in an inland county of Massachusetts, his room at the tavern happened to open into that of the opposing counsel, who, waking about two o'clock in the morning, was surprised to see a bright light gleaming under and around the loosely fitting door. Supposing that Mr. Choate, who had retired early, might have been taken suddenly ill, he entered his room and found him dressed and standing before a small table which he had placed upon chairs, with four candles upon it, vigorously writing. Apologies and explanations at once followed, Mr. Choate saying that he was wakeful, had slept enough, and the expected

contest of the morrow stimulated him to every possible preparation.

Every important and difficult cause took such possession of him that he would get no sound sleep till it was finished. His mind, to use his own illustration, became a stream that took up the cause, like a ship, and bore it on night and day till the verdict or judgment was reached. It is not surprising, then, that he came from a trial so much exhausted. Almost every considerable case was attended or followed with a severe attack of sick-headache. But his recuperative power was as wonderful as his capacity for work. A friend once asked how long it took him to recover from the wear of a heavy case, and how long to enter into a new case with full force. He said, that often three or four hours were enough to recover in, and almost always a day. As to getting into a case, he said, that *the moment his eye struck a book*, or *legal paper*, the subject lifted him, and that five minutes were sufficient to give him full power for work and command of his faculties. He was then in full sail.

Although so familiar with the courts, and always master of himself, he was often filled with a nervous agitation when approaching the argument, sometimes saying that he "should certainly break down; every man must fail at some time, and *his* hour had come." However deeply absorbed in the cause before him, he seemed to see everything that was going on in the court-room. As he was once addressing a jury, a woman in a distant part of the court-room rose and went out, with some rustling of silk. Being asked afterwards if he noticed it, "Noticed it!" he said, "I thought forty battalions were moving."

With a vocabulary so rich, and a fancy so lively, it is not surprising that he sometimes gave license to his powers, and now and then "drove a substantive and six," but no one could at will be more exact, or more felicitously combine the utmost precision with the most delicious music of words. Ever alive to the ludicrous, he often dexterously caught up cant phrases, or popular terms of the day, and eviscerating them of everything like vulgarity, forced them for a moment into his service — all redolent of the novel odors of the field, the market, or the fireside, where they had their birth — and then dismissed them forever.

"His wit," says one who knew him well, "was of the most delightful kind, playful and pungent, and his conversation was full of the aptest quotation, always, however, *parcè detorta*, so as to take off any possible tinge of pedantry, and generally with a more or less ludicrous application. He was fond of bringing out the etymology of words in his use of them, as, for example, when speaking of a disappointed candidate for an important nomination, he said, the convention "ejaculated him out at the window;" and of new and odd applications of their figurative meanings, as when he said of a very ugly artist who had produced a too faithful representation of himself, "Mr. —— has painted his own portrait and it is a *flagrant* likeness."

His wit and humor were fresh and peculiar; seldom provoking loud laughter, but perpetually feeding the mind with delight. He never prepared nor reserved his good things for a grand occasion, and to those who knew him best was as full of surprises as to a stranger. In the little office of a justice of the peace,—in a retired room of a railroad depot, in presence of a few interested members of the corporation,—before two or three sensible, but not brilliant, referees in the hall of a country tavern, he displayed nearly the same abundance of learning, the same exuberance of language, and felicity of allusion, the same playfulness and beauty, as when he spoke before the most learned bench, or the elegant and cultivated assemblies of Boston. This might seem like a reckless expenditure of unnecessary wealth. In one sense, perhaps, it was so; yet he had a marvellous faculty of adaptation, as well as the higher power of drawing all to himself, and I doubt if anybody ever listened to him with greater delight and admiration than plain, substantial yeomen who might not be able to understand one in a hundred of his allusions. They understood quite enough to delight and convince them, as well as to afford food for much laughter, and, if they chose, for much meditation.

The sweetness of his temper so pervaded and controlled everything that he said, that although peculiarities of character, or circumstances, or manner, or appearance, sometimes drew down the flash of his pleasantry, as the unguarded spire the lightning from the surcharged cloud, it was

a harmless bolt, unless, (which was very rarely the case,) he was provoked by injustice or harshness to give proof of his power. Sayings of his, innumerable, have been current among the members of the bar, but I never heard of a man who felt aggrieved by any of them. His regard for Chief Justice Shaw amounted to veneration. "With what judge," he once, in substance, said, "can you see your antagonist freely conversing, without the slightest apprehension, as you can with him?" Looking once at an engraving of Sir Matthew Hale, "A very great judge," he said, "but not greater, I think, than the Chief," as Judge Shaw was familiarly called. An eminent lawyer, engaged with him in a case, was once rising to contest what seemed an unfavorable, if not an unfair, ruling. Mr. Choate drew him back and whispered in his ear, "Let it go. Sit down. Life, liberty, and property are always safe in *his* hands." One anecdote has been often told incorrectly, and so as to convey a wrong impression, which I am able to give in the words of an eminent lawyer, who was himself an actor in the scene. "It was in the East Cambridge court-house, at the law term. The full Bench were present; a tedious argument had been dragging its weary length along for an hour or two; the session had lasted several hours, and the Chief Justice had yielded for a moment to drowsiness, — being no more than mortal. Mr. Choate and I were sitting in the bar, being concerned in the next case. As I looked up at the Bench, the large head of the Chief Justice presented itself settled down upon his breast about as far as it could go, his eyes closed, his hair shaggy and disordered, having on a pair of large black spectacles which had slid down to the very tip of his nose, and his face seeming to have discharged, for the time, every trace of intelligence,

'Φαίης κε ζάκοτόν τέ τιν' ἔμμεναι, ἄφρονά τ' αὔτως.'[1]

I looked, and then looked at Mr. Choate, whose eyes had followed mine, and then said to him, 'that notwithstanding the curious spectacle he sometimes furnished us, I could never look at the Chief Justice without reverence.' 'Nor can I,' he replied. 'When you consider for how many years, and with what strength and wisdom he has administered the law,

[1] Iliad, III., 220.

— how *steady* he has kept everything, — how much we owe to his weight of character, — I confess I regard him as the Indian does his wooden log, curiously carved; I acknowledge he's ugly, but I bow before a superior intelligence!' You can imagine the twinkle of the eye, and the parenthetical tone with which the 'I acknowledge he's ugly' came in. I hope you will be able to get together many of Mr. Choate's felicities; they must abound in all memories."

His pleasantry was exuberant and unfailing, in defeat as well as in victory. It was a safeguard against depression and discouragement. Receiving, one morning, a note from a gentlemen engaged with him in a cause at Washington, informing him that the Court had decided against them, he at once wrote back:

"DEAR SIR, — The Court has lost its little wits. Please let me have — 1. Our brief, (for the law.) 2. The defendant's brief, (for the sophistry.) 3. The opinion, (for the foolishness,) and never say die.

"R. C."

He was rather fond of talking of his contemporaries, but rarely spoke of any of them otherwise than kindly and favorably, — lingering upon their merits, and passing over their failings. Occasionally, after speaking of others, he would refer to himself in the same connection. Conversing one day with a young friend about Mr. Franklin Dexter, then just deceased, he eulogized him as a most able, faithful, and conscientious prosecuting officer, who never pressed an indictment for the sake of victory, nor unless he believed that a verdict against the accused would fulfil the highest ends of justice. He then proceeded to speak in general terms of the responsibility of a public prosecutor, and of his own deep sense of this responsibility while Attorney-General. He was solemn and earnest, and left a profound impression that never while holding that office was he entirely free from anxiety that nothing should be done by him, or through his means, by which a possibly innocent prisoner should lose his legal chances of acquittal.

When talking with a client, respecting a defence, his rule was, never to ask him whether he did the act; yet he was very watchful for signs of innocence or guilt. After an interview with a person who consulted him as to a disgraceful

imputation under which he was laboring, he remarked, "He did it, *he sweats so.*"

Although one could hardly converse with Mr. Choate for five minutes without hearing some remark striking for its beauty, or novelty, or humor, yet few of these sayings have been recorded, and in most cases, where the thought has remained, the rare felicity of language which graced it has escaped the memory, and the strange, indescribable fascination of manner with which it was accompanied no one can reproduce. Any one who has a fresh recollection of the impression produced at the time by some sudden flash of his mind, will be the more reluctant to repeat what invariably loses in the process. I have been able to gather up but a few of these unpremeditated sayings. Those who knew Mr. Choate must supply for themselves the tone and manner.

The qualifications of a certain office holder being discussed in his presence, Mr. Choate said, "Yes, Sir, you may sum them up by asserting that he is self-sufficient, all-sufficient, and *in*sufficient."

A copy of the "Poetry of the East," by Rev. Mr. Alger, had been sent to him. Meeting the author at a party soon after, he remarked to him, "I examined your 'Poetry of the East' with a great deal of interest. The Orientals seem to be amply competent to metaphysics, wonderfully competent to poetry, scarcely competent to virtue, utterly *in*competent to liberty."

For the following I am indebted to the kindness of Mr. Ticknor: — "Mr. Choate was of counsel in the case of the Federal-Street Church, and I was summoned as a witness. Sitting with him in the bar, after I had been examined, my eye fell accidentally on his notes, which, you are aware, were somewhat remarkable, so far as the handwriting was concerned. It struck me, however, while I was looking at them, that they much resembled two rather long autograph letters which I preserve in my small collection of such curiosities; one by Manuel the Great of Portugal, dated in 1512, and the other by Gonzalvo de Cordova, 'the Great Captain,' written, I suppose, a little earlier, but with no date that I can make out. I could not help telling Mr. Choate that I possessed these specimens of the handwriting of two such remarkable

men, who lived three hundred and fifty years ago, and that they strongly resembled his notes, as they lay on the table before us. 'Remarkable men, no doubt,' he replied instantly; 'they seem to have been much in advance of their time!'"

This, said with his peculiar suavity and droll expression, the singularity of the comparison and the grounds of praise, was like a little flash of sunlight through a cloud.

Taking an early morning walk he met Mr. Prescott, whose "Philip II." had been for some time impatiently expected. "You are out early," said the historian. "I wish," he replied, "I could say the same of you, who are keeping the whole world waiting."

A celebrated lecturer meeting him, said that he was thinking of writing a lecture on one of the ancient generals. "That is it," said Mr. Choate; "Hannibal is your man. Think of him crossing the Alps in winter, with nobody at his back but a parcel of Numidians, Moors, Niggers, riding on horses without any bridles, to set himself against that imperial Roman power!"

Attending the opera on one occasion, and being but indifferently amused by the acting and music, which he did not understand, he turned to his daughter and said, with grave formality: "Helen, interpret to me this libretto, lest I dilate with the wrong emotion!"

"He objected once to an illiterate constable's return of service, bristling all over with the word *having*, on the ground that it was bad. The judge remarked that, though inelegant and ungrammatical in its structure, the paper still seemed to be good in a legal sense. 'It may be so, your Honor,' replied Mr. Choate, 'but, it must be confessed, he has greatly *overworked* the participle.'"[1]

In replying to a lawyer who had been addressing the Court in a loud and almost boisterous manner, Mr. Choate referred playfully to his "stentorian powers." To his surprise, however, the counsel took it in dudgeon, and as soon as possible rose to protest against the hostile assault. "He had not been aware of anything in his mode of address which would justify such an epithet; he thought it unusual and undeserved," &c., &c. Going on thus, his voice unconsciously soon rose again

[1] Essays by E. P. Whipple, vol. ii. p. 167.

to its highest key, and rung through the court-house as if he were haranguing an army; when Mr. Choate half rose, and stretching out his hand with a deprecatory gesture, said, in the blandest tones, "One word, may it please the Court; only one word, if my brother will allow. *I see my mistake.* I beg leave to retract what I said!" The effect was irresistible. The counsel was silent; the Court and spectators convulsed with laughter.

Of a lawyer at once pugnacious, obstinate, and dull-witted, he remarked that he seemed to be a bull-dog with confused ideas. The description was comprehensive and perfect.

During the trial of Crafts, Mr. Choate was pressing the Court to make what he thought a very equitable and necessary order in relation to taking a certain deposition. The Court, finding no precedent for it, suggested that the matter be suspended till the next day, "and then," added the judge, "I will make the order, if you shall be able to furnish me with any precedent for such proceeding." "I will look, your Honor," replied Mr. Choate, in his most deferential manner, "and endeavor to find a precedent, if you require it; though it would seem to be a pity that the Court should lose the honor of being the first to establish so just a rule."

"I met him once," said a member of the New-York Bar,[1] "at the United States Hotel, in Boston, when he was boarding there. As we were walking up and down the hall of the house after dinner, I happened to see hanging on the wall a map of a piece of property in Quincy, and remarked that that reminded me of one whom I must regard as the most remarkable man of our day (John Quincy Adams). He said, 'Yes, I think he is. We have no man as much so, and I think they have none in England. The Duke I think is less wonderful, all things considered.' I spoke of his remarkable memory, his vast knowledge and his marvellous facility in using it, and alluded to his recent efforts in the House of Representatives at Washington, where something had been said about impeaching him, and remarked, that without waiting to assume the defensive, or say anything *for* himself, he had rushed upon his accusers and wellnigh demolished them, bringing from the treasures of his memory every incident of their lives that

[1] From the memorandum of Hon. Charles A. Peabody.

could be useful to him, and drawing as from an armory every variety of weapons practicable for their destruction. 'Yes,' he replied, 'he has always untold treasures of facts, and they are always at his command. He has peculiar powers as an assailant, and almost always, even when attacked, gets himself into that attitude by making war upon his accuser; and he has, withal, *an instinct for the jugular and the carotid artery, as unerring as that of any carnivorous animal.*'"

Mr. Choate's eloquence was of an extraordinary nature, which one who never heard him can hardly understand. It was complex, like his mind; at once broad and subtle; easily understood but impossible to describe; compact with all the elements of beauty and of power; a spell composed of all things rich and strange, to fascinate, persuade, and convince. It was not by accident that he reached such success as an advocate, but through profound study and severe training. Not to speak of that which lies at the basis of all permanent success, a thorough knowledge of the law as a science, as well as in its forms, he was remarkable for sound judgment in the preparation and management of a cause. He knew instinctively what to affirm and what to yield. He chose the point of attack or defence with consummate skill; and if he did not succeed, it was because success was not possible. His mind moved like a flash, and an unguarded point, a flaw in an argument, an unwise theory of procedure, a charge somewhat too strong or a little beside the real purpose, were seized upon with almost absolute certainty and turned with damaging effect against his opponents. In the preparation of a case he left nothing to accident which he could fix by care and labor. In determining a theory of defence, he was endless in suggestions and hypotheses till the one was chosen which seemed impregnable, or at any rate the best that could be found. In consultation he generally looked first at his opponent's side, then at his own; stating in full force every unfavorable argument, and then endeavoring to answer them, thus playing the whole through like a game of chess. In these cases his attention was given not only to a general proposition but to all its details. A person once prosecuted the city to recover damages for injuries received by a fall in consequence of a defect in a bridge. At the first meeting for consultation with the

junior counsel he spent an hour in determining exactly how one could so catch his foot in a hole as to be thrown in the way to produce the specific injury, till by means of the fender and coal-hod, with the tongs and shovel, he constructed a rude model of the dilapidated bridge, and satisfied himself of the precise manner in which the accident happened. No man was ever more courageous than he for his client. Sometimes he seemed to run prodigious risks; but he knew his ground, and when once taken, nothing would beat him from it. His plea of somnambulism in Tirrell's case subjected him to a thousand innuendoes, to the bantering of the newspapers and the ridicule of the vulgar. The jury themselves said that in coming to their verdict, they did not consider it. But in the second trial he brought it forward with just as much assurance as ever.

His knowledge of human nature was intuitive. At a glance he formed a judgment of the jurymen, and governed himself accordingly, sometimes addressing each individual according to his perception of their several characteristics, repeating and varying his arguments till every mind was reached. However forcible or strong, he never was harsh or coarse. In no orator were the elements of conviction and persuasion so beautifully blended. His conviction was persuasive; his persuasion, convincing. More truly than was said of Fox, "his intellect was all feeling, and his feeling all intellect." No juryman was ever weary with his argument. The dryest matter of fact was enlivened by some unexpected turn of humor, or unthought-of illustration. His logic never assumed technical forms, but was enveloped and carried onward in narrative and illustration.

In his arguments to a jury, his openings were natural, easy, and informal. He glided into a subject so gently that you hardly knew it. He, oftener than otherwise, began with a general statement of the whole case, making a clear and definite outline, which no one could fail to understand and remember. He then proceeded to a careful and protracted analysis of the evidence; his theory of the case, in the mean time, had been pretty broadly broached, and his propositions, perhaps, laid down, and repeated with every variety of statement which seemed necessary for his purpose. Often his theory was

insinuated rather than stated, and the jury were led insensibly to form it for themselves. His skill in narrative was equal to his cogency in argument. He had a wonderful power of vivid portraiture, — of compressing an argument into a word, or phrase, or illustration.

No one could make a more clear, convincing, and effective statement; none held all the resources of the language more absolutely at command. His power over the sympathies, by which, from the first word he uttered, you were drawn to him with a strange and inexplicable attraction, was wonderful. Court, jury, and spectators seemed fused into one mass of willing and delighted listeners. They could not *help* being influenced by him. Calming the hostility of his hearers by kindness, conciliating their prejudices, converting them into friends, bending their will to his in delightful harmony, he moved on with irresistible force, boiling along his course, tumultuous but beautiful, lifting them bodily, bearing all with him, and prostrating all before him. His pleasantry and wit, his grotesque exaggerations, never gross or vulgar, served to wake up a sleepy juryman, or relieve a dry detail. They lubricated the wheels of a long train of discussion. He often put himself so far as he could, really or jocosely yet half in earnest, into sympathy with his opponents themselves. In the Dalton case he professed at the outset that he spoke in the interest of both parties. In the case of Shaw *vs.* The Boston and Worcester Railroad, which was contested with a good deal of feeling, coming to the close of his argument he said, turning round and facing the President of the road, "My friends, the President and Directors of the Boston and Worcester Railroad, honorable and high-minded men as I know them to be, have probably considered that they should not be justified in paying to the plaintiff the large sum of money claimed in this case without the protection of a judgment in a suit at law; but I have no doubt, gentlemen, if you establish the liability, every one of them would lay his hand on his heart and say, 'Give her all that she asks, and God bless her!'"

Mr. Choate never lost self-possession. He seemed to have the surest mastery of himself in the moment of greatest excitement. He was never beside himself with passion or anxiety, and seldom disconcerted by any accident or unex-

pected posture of affairs, — so *very* seldom indeed, that the one or two cases where he was slightly so, are pretty distinctly remembered. One instance occurred in the trial of a question of salvage. It was the case of The Missouri, an American vessel stranded on the coast of Sumatra, with specie on board. The master of the stranded vessel, one Dixey, and Pitman, the master of the vessel that came to her aid, agreed together to embezzle the greater part of the specie, and pretend that they had been robbed of it by the Malays. Mr. Choate was cross-examining Dixey very closely to get out of him the exact time and nature of the agreement. The witness said that Pitman proposed the scheme, and that he objected to it, among other reasons, as dangerous. To which, he said, Pitman made a suggestion intended to satisfy him. Mr. Choate insisted on knowing what that suggestion was. The witness reluctated at giving it. Mr. Choate was peremptory, and the scene became interesting. "Well," said Dixey at last, "if you must know, he said that if any trouble came of it we could have Rufus Choate to defend us, and he would get us off if we were caught with the money in our boots." It was several minutes before the Court could go on with the business. For some time Mr. Choate seemed very uncertain how to take it. He did not relish the nature of the compliment, and yet it was a striking tribute to his fame that two men, at the antipodes, should concoct a great fraud relying upon his genius to save them; and so the opposing counsel, Mr. Dana, put it, in his argument, aptly quoting the *Quæ regio in terris.*

His wit, his ludicrous representations, his sublime exaggerations, were never without a purpose. They were not the result of a taste which delighted in such things as beauties or felicities, but of a desire to attract the wandering attention, to fasten a thought by a ludicrous picture, to relieve the mind of the weary jury, or to show by an illustration the absurdity of the proposition he was combating.

In an argument before a committee of the Legislature in 1860, in behalf of the petitioners for a railroad from Salem to Malden, he drew one of those pictures with which he was accustomed to amuse, but, also, much more than merely to amuse, a jury. One argument in favor of the new road was,

that it would enable travellers to avoid the East Boston Ferry, and to gain in speed. In reply, the beauties of the prospect in the harbor, and the pleasure of meeting friends on the boat, were referred to, as an offset.

"The learned though somewhat fanciful gentleman," said Mr. Choate, "has eloquently set forth the delight which must be felt by all in catching an occasional glimpse of the harbor, as they cross in the boat; as if the business people of Danvers, Lynn, or Saugus, would care to stop, or think of stopping, to gaze upon the threadbare and monotonous beauties of Boston Harbor when hurrying to transact their affairs. Unfortunately, too, for the gentleman's case, in this respect, it so happens that these same people have compelled this company to arch their boat all over, and wall it up all round, so that nothing at all can be seen. Then the delight of meeting and shaking hands with an old friend! *Conceive, gentlemen, the pastoral, touching, pathetic picture of two Salem gentlemen, who have been in the habit of seeing each other a dozen times a day for the last twenty-five years, almost rushing into each other's arms on board the ferry-boat;* — WHAT TRANSPORT! We can only regret that such felicity should be so soon broken up by the necessity of running a race against time, or fighting with each other for a seat in the cars."

The following ludicrous exaggeration long held its place among the stories about the court: —

In April, 1847, the Joint Commissioners of Massachusetts and Rhode Island, appointed to ascertain and establish the boundary line between the two States, made an agreement and presented it to their respective Legislatures.

Parties living in Massachusetts, whose rights were affected by this decision, petitioned the Legislature against the acceptance of the Commissioners' report. Mr. Choate appeared for these remonstrants. A portion of the boundary line was described in the agreement as follows: "Beginning," &c., &c., "thence to an angle on the easterly side of Watuppa Pond, thence across the said pond to the two rocks on the westerly side of said pond and near thereto, then westerly to the buttonwood tree in the village of Fall River," &c., &c.

In his argument, commenting on the boundary, Mr. Choate thus referred to this part of the description: —

"A boundary line between two sovereign States described by a *couple of stones* near a pond, and a *buttonwood sapling* in a village! The Commissioners might as well have defined it as starting from a blue jay, thence to a swarm of bees in hiving time, and thence to five hundred foxes with firebrands tied to their tails!"

Mr. Choate's style was peculiar, and entirely his own. Its exuberance, its stateliness and dignity, its music and its wealth, were as fascinating as they were inimitable. One can hardly fail to recognize, even in the least characteristic of his speeches, a true nobleness, a touch of imperial grace, such as has been vouchsafed only to the supreme masters of the language. His style has sometimes been criticised by those who have forgotten that his speeches were meant for hearers rather than for readers, and that a mind of such extraordinary affluence and vigor will, of necessity, in many respects, be a law to itself. He was, however, quite aware that a style of greater simplicity and severity would be necessary for a writer; and this, probably, was one thing which prevented him from entering seriously on those literary labors which were evidently, at one time, an object of real interest.

I am glad to be able to introduce here some subtle and suggestive remarks on this subject, by an observant and thoughtful critic, — Rev. Joseph Tracy.

"I do not know," he says, "that I can describe suitably, on paper, that peculiarity of Mr. Choate's style of which we were speaking, and which is so marked in his famous 'long sentences.' Many have observed that it was not wordiness. He had words and used them, in rich abundance; but if you examine even the most sounding of his long sentences, you find in them no redundant words. Each of its several members is made up of such words, and of such only, as were needed for the perfect expression of the thought.

"Nor was it in that cumulative power by which one idea, image, or argument, is piled upon another, so as to make up an overwhelming mass. He had this power in a remarkable degree; but so had many others — perhaps almost all great orators. Cicero has left some splendid examples of it.

"It was rather the result of the peculiar logical structure of his mind; for in him logic and rhetoric were not separate

departments, but one living process. He instinctively strove to present an idea, a thought, in its perfect completeness, — the thought, the whole thought, and nothing but the thought; so to present it that there would be no need of adding to his statement of it, subtracting from it, or in any way modifying it, after it had once been made. He seemed to use words not exactly to *convey* ideas to his hearers, but rather to assist and guide their minds in the work of constructing the same ideas that were in his own. In carrying their minds through this process, he must give them, not merely the idea which had been the result of his own thinking, but its elements, their proportions, their limitations, their bearings on the results. In this process, clauses of definition, of discrimination, of limitation, were often as necessary as those of a contrary character. Any element of thought which contributed to the result only in some qualified sense, must be mentioned with the proper qualification, lest there should remain a doubt whether it ought to be mentioned at all. It is in this respect that his long sentences seem to me to differ, characteristically, from the long sentences of other orators, which are merely cumulative. The practical effect was, that the hearer found himself not merely overwhelmed by the multitude of grand things that had been said, but also led, by a safe logical process, to the desired conclusion.

"How else can we account for the effect which his long sentences certainly did produce on even common minds? Could such minds, after hearing one of them, recollect and appreciate all the particulars contained in it? But few, even of educated men, who *read* them, can do that. The effect is produced by the logic which runs through them and does its work during the progress of the sentence, so that when the sentence is ended the conclusion is reached.

"A remarkable example of such long sentences as I have tried to describe, is found in Mr. Choate's remarks at the meeting of the Suffolk Bar on the death of Mr. Webster. I have often thought that studying that address, so as thoroughly to master it, (and the same may be said of his Eulogy on Mr. Webster, and other elaborate performances,) would be a good exercise for a theological student, about to enter on the study of Paul's epistles, where he will find many long sentences

which seem to be made long on the same principle, and as a result of the same logical instincts. Paul's parentheses, like those of Choate, are put in, that the reader, when he arrives at the end of a sentence, may have constructed in his own mind exactly the right idea, with all the limitations, qualifications, and appurtenances which are essential to its identity and completeness."

Mr. Choate's memory was exact and tenacious. He could generally repeat considerable portions of what he had recently read; was always ready with an apt quotation, and able to correct those who made a wrong one. An interesting illustration of this occurred during the trial of William Wyman, in 1848, for embezzling the funds of the Phœnix Bank. An array of counsel was assembled such as is rarely seen, and the court-house was crowded with intensely interested spectators. "In the course of the trial, and in a most exciting passage, when all the counsel *appeared* to be intent upon the case and nothing else, Mr. Webster wrote on a slip of paper a favorite couplet of Pope, and passed it to Mr. Choate,

> 'Lo where Mæotis sleeps, and softly flows
> The freezing Tanais through a waste of snows.'

Mr. Choate wrote at the bottom 'wrong,'

> 'Lo where Mæotis sleeps, and *hardly* flows
> The freezing Tanais through a waste of snows.'

Mr. Webster rejoined, 'right,' and offered a wager. A messenger was despatched for Pope, when it appeared that Mr. Choate was right. Mr. Webster gravely wrote on the copy of Pope, 'spurious edition,' and the subject was dropped. All this while the spectators were in the full belief that the learned counsel were in earnest consultation on some difficult point of law."[1]

One will not unfrequently notice in Mr. Choate's speeches and writings, as they might have in his conversation, fragmentary quotations, — half-lines of poetry, — a single catchword of a wise maxim, — a partially translated proverb, — which harmonized with his thought, but which to those familiar with them were suggestive of much more than was said. An instance of his readiness in felicitous quotation is given by Mr.

[1] Law Reporter, January, 1844.

Parker in his "Reminiscences," which I am permitted to extract.

"In the winter of 1850, a large party was given in Washington, and many illustrious personages were present, who have since, like Mr. Choate, gone down to the grave amid the tears of their countrymen. The Senate, at that time worthy of the name, was well represented on this occasion of festivity, and the play and airy vivacity of the conversation, with 'the cups which cheer but not inebriate,' relaxed at intervals even senatorial dignity. During the evening the subject of 'Young America' was introduced, — his waywardness, his extravagance, his ignorance, and presumption. Mr. Webster observed, that he hoped the youth would soon come to his senses, and atone, by the correctness of his deportment, for his juvenile dissipation. At the same time, he added, that, in his opinion, the only efficient remedy for the vice and folly of the lad would be found in early religious training, and stricter parental restraint. Mr. Choate declared, that he did not view the hair-brained youth in the same light with his illustrious friend; that every age and every country had, if not their 'Young America,' at least something worse. The character of Trajan, the best and purest of Roman emperors, said he, was unable, with all its virtue and splendor, to check the 'Young Italy' of that day. Our lads would seem to have sat for the picture which has been drawn of the Roman youths, by the hand of one who seldom colored too highly. '*Statim sapiunt, statim sciunt omnia; neminem verentur, imitantur neminem, atque ipsi sibi exempla sunt,*' which, translated, reads thus, 'From their cradles they know all things, — they understand all things, — they have no regard for any person whatever, high or low, rich or poor, religious or otherwise, — and are themselves the only examples which they are disposed to follow.' Mr. Benton thought the quotation too happy to be genuine, and demanded the author. Mr. Choate, with the utmost good humor, replied, that his legal habits had taught him the importance of citing no case without being able to give his authorities; he called for the younger Pliny, and triumphantly showed the passage, amid the admiration of that brilliant assembly, in the 23rd letter of the

8th book. Our informant remarks, that the history of literature, perhaps, cannot show an equally felicitous quotation."

His fondness for books was a striking characteristic. The heart of his home was his library. Hither he retreated from the distractions of business, and the disappointments of politics, to discourse with the great spirits of other times; yielding with unfailing delight to the lofty stimulus of great minds, and communing with them as with friends. He reposed among his books. He bought them freely, generally for use, though in some departments, and with some favorite authors, he allowed free scope to his tastes, and adorned his shelves with choice editions. In a city he gravitated toward a book-store or a public library, as if by a fixed and unvarying law of nature. During the earlier years of his residence in Boston, when professional occupation allowed him leisure, he was often found in Burnham's Antiquarian Book-store, poring over the heterogeneous treasures of that immense depository.

Shortly after his death there appeared in the "New York Times" a communication from a well-known dealer in old books, which merits preservation, as a simple, unvarnished statement of the truth.

"RUFUS CHOATE'S LOVE FOR BOOKS.

"The death of this illustrious man brings to my mind certain reminiscences of him, which I think worthy of keeping in remembrance.

"About ten years ago, when on a visit, or passing through this city, Mr. Choate called at my store, about ten o'clock A. M., and introduced himself as a lover of books and an occasional buyer, and then desired to be shown where the Metaphysics, and the Greek and Roman Classics, stood. He immediately commenced his researches, with great apparent eagerness; nor did he quit his toil till he was compelled to do so by the store being shut up, thus having been over nine hours on a stretch, without food or drink. He remarked that 'he had quite exhausted himself, mentally as well as bodily.' He had been greatly interested, as well as excited, at what he had seen; 'for,' continued he, 'I have discovered

many books that I have never seen before, and seen those that I had never heard of; but, above all, I have been more than overjoyed at discovering, in your collection, a copy of the Greek bishop's[1] famous commentary on the writings of Homer, in seven volumes, quarto, a work that I have long had an intense desire to possess.' He afterwards purchased the precious volumes. I had the *seven* volumes bound in three, in handsome and appropriate style. These works no doubt still grace his library. W. G."

To the last he was studious of letters, full of sympathy with literary men and their works, and especially fond of the classics, and of imaginative literature. During the most busy period of his professional labor he managed to secure at least an hour every day — rescued from sleep, or society, or recreation — for Greek or Latin, or some other favorite study. He sometimes, at the commencement of a college term, would mark out his course of study by the curriculum as laid down in the catalogue, and thus keep on *pari passu* with one or two of the classes. He was indifferent to ordinary amusements, had no love for horses, or field sports; and seemed hardly to desire any other rest than that which came from a change of intellectual action. In the later years of his life he undertook the study of German with one of his daughters, learning the grammar during his morning walks, and reciting at table.

If the question were asked, to what pursuits Mr. Choate's tastes, unobstructed, would have led him, I am inclined to think the answer would be — to letters rather than to the law. Books were his passion. His heart was in

"The world of thought, the world of dream,"

with philosophers, historians, and poets; and had his fortune allowed, he would have endeavored to take rank with them, — to illustrate, perhaps, some great period of history with a work worthy of the best learning and the widest cul-

[1] Eustathius (Archbishop of Thessalonica) was born in the twelfth century at Constantinople. He was the author of the well-known voluminous commentary on Homer, written in the same language as the Iliad. His commentaries were first printed at Rome, 1550, in two volumes folio. Besides these commentaries, he was the author of several other critical works.

ture; or to unfold the sound and deep principles of a true political philosophy. He might not, indeed, have avoided, but rather have sought, public life; for he felt its fascinations, and fairly estimated its grand opportunities. His ambition might have been to move in the sphere of Burke (of whom he sometimes reminds one) or Macaulay, rather than that of Erskine or Eldon. Hence, though bringing to the Law marvellous aptitude, wonderful diligence, and entire self-devotion, sacrificing, as some thought, in the sharp contests of the bar, powers which might better have graced another and higher sphere, — he was never a mere lawyer. And yet so absorbed was he in his profession, — it was a necessity, and at least a *second* love, — that with the exception of a few columns in the newspapers, a brief article in the "North American Review," a few speeches and orations, I know not that he fully prepared anything for the press.

He cared nothing for money; little, too little, perhaps, for society, beyond his own immediate friends; and less than any able and brilliant man I ever knew, or almost ever heard of, for fame; but study, books, intellectual labor and achievements, poetry, truth — these were controlling elements of his life. However prostrated or worn, a new intellectual stimulus would raise him in an instant. "One day," says a former student of his,[1] "he came into the office tired and sick; the great lines of his face yellow and deep; his eyes full of a blaze of light, yet heavy and drooping. Throwing himself exhausted on the sofa, he exclaimed, 'The law — to be a good lawyer is no more than to be a good carpenter. It is knack, — simply running a machine.' Soon after a man came in with a splendid edition of Sir William Hamilton's 'Reid,' fresh from London. He was changed in a moment. Springing from the sofa, he glanced admiringly over the philosophy, saying, 'Here's food; now I will go home and feast. There's true poetry in these metaphysicians.' And so he went off to refresh himself with that light reading."

The following recollections of Mr. Choate are from a gentleman who saw him frequently and familiarly: —

"DEAR SIR, — The principal reason for my neglect to send you any reminiscences of Mr. Choate is, that when I have

[1] Rev. J. M. Marsters, to whom I am indebted for many interesting particulars.

tried to put them into shape, they have seemed too meagre and insignificant to be worth your notice. Indeed, I think that the recollections of his daily life, retained by any one who saw him familiarly 'in his habit as he lived,' are extremely difficult of development in words. Everything which he said produced an impression on the hearer; but an attempt to repeat the saying, and reproduce the impression on one who did not know him, results in failure. The flavor is gone. It proceeded from the time, the occasion, the manner, the tone, the personal magnetism of the man. There were some subjects on which Mr. Choate always liked to talk, — about his contemporaries, or on his favorite classics, or to young men about their studies, or the best preparation for practical success, or the true ends and aims of life, and the ways and means of civil and professional activity and usefulness.

"I used, when I knew Mr. Choate to be at leisure and alone, to stroll from my room into his, and start some topic. He would at once enter into it with all interest, and as if that were the very subject he had been studying most carefully and recently. You may imagine, I was always inclined to hear rather than to be heard. Still, his remarks were always suggestive of answers; and it was easier to talk with him — really to converse, not merely to listen — than with any man of note whom it has been my fortune to meet. He did not lecture nor preach. Frequently he drew out the knowledge or opinions of the person conversing with him, — whether young or old, learned or otherwise, — by direct questions; and in such cases he always seemed to be actually seeking information, — not attempting to find out, like a tutor at a recitation, how much the catechised individual knew. I always felt, after spending ten minutes with him, as if I had been not only stocked with fresh stores, but developed, — quite as much educated as instructed. Then, what he said was so stimulant and encouraging. One always went away, not depressed by the sense of his own inferiority, but determined to know more about what he had been talking of, and confident that he had been put in the right way to learn more.

"Nothing pleased his young friends so much as the deference with which he received what they had to say. I remember his once asking what I thought of a point which he

was about to argue to the Bench, and about which I had very imperfect ideas. I made some sort of vague reply; but was agreeably surprised, shortly afterwards, by hearing my exact words introduced to the full Court in an abundance of good company, and in a connection which gave them some significance. The junior associate in a case could not whisper to him in the middle of an argument without his saying to judge or jury, 'My learned brother has just suggested to me,' — and the suggestion, or something like it, would come forth, freed from error and crudity, illustrated and made telling.

"His serious conversation was always exact and terse in expression, and he disliked any looseness in that respect in others. He asked me once what the judge had charged the jury in a certain case. I answered — 'That they must find the fact thus and so,' — meaning that they were charged, unless they found it so, not to bring in a verdict for the plaintiff. He replied very quickly, 'I suppose he told them to find it as it was *really*, didn't he?' In grammar and pronunciation he was precise even in his peculiarities; and any error he would reprove by introducing the same into his next sentence with — 'as you call it.'

"Mr. Choate's playful conversation it seems impossible to put into a book, and retain the sparkle. And yet his quaintness was perhaps his most distinguishing characteristic to those with whom he was intimate. They remember him asking after his only grand-daughter with, 'How is the boy?' — or coming into a room with a question or a remark wholly incongruous with the time and the surroundings; — or interspersing the business of a trial with all sorts of ludicrous remark and by-play, audible and visible only to those just around him in the bar; — or speaking of a husband, from whom he had just obtained a settlement for his client, an injured but not very amiable wife, as a sinner, and adding, 'Mrs. —— is a sinner, too,' — then immediately correcting himself with, 'No, Sir, she is *not* a sinner, for she is our *client*, but she is certainly a very disagreeable *saint*;' — or ingeniously harassing a nervous legal opponent, in private consultation upon a compromise, until he rushed from the room in distraction, and then quietly finishing the sentence

to the nervous gentleman's associate, as if it had been originally addressed to him, and his friend's departure had not been noticed; — or, when afflicted with the disorder of sight which produces a wavy illusion before the eyes, suddenly stopping a friend in the street, and astounding him with the statement, 'Mr. H., you look like two great snakes!' All these things, amusing and puzzling when seen as well as heard, are flat and stale in the mere relation.

"I have mentioned how much Mr. Choate liked to talk upon the classics. His reputation as a classical scholar was, as you know, very high, and I think deservedly so. He had all the qualifications, except time, for fine scholarship in this department, — an ardent love of the subject, a fondness for the general study of language, a vast and accurate memory, and great assiduity and minuteness in investigation. You know how rich his library was in classical works; and I always used to see upon his office-table the German periodical catalogues of new editions and philological publications. I do not suppose that he equalled the linguists of the universities in thoroughness and precision of learning. This was not compatible with the variety and pressure of his other pursuits. But during the few minutes which he daily bestowed upon Latin and Greek, he studied rather than read, spending the time upon one sentence, not upon several pages. With half a dozen editions of his author open before him, and all the standard lexicons and grammars at hand, he referred to each in turn, and compared and digested their various authority and opinion. I imagine he always *translated* (not contenting himself with the idea in its original dress,) for the sake of greater precision of conception, and also of practice in idiomatic English. You will notice in his written translations how he strives to find a phrase which will sound as familiar to an English ear, as the original to that of a Greek or Roman. When he uses an ancient idiom, in translation or original composition, it seems intentional, and as if he thought it would bear transplanting.

"In his scholarship, as in other things, he was anxious to be accurate, and spared no pains in investigating a disputed point. In this, as in law, the merest novice could put him upon inquiry, by doubting his opinion. He was not positive

at the outset, but set himself to studying at once; and when he had finally reviewed his position no one could stir him from his final conclusion. I remember once showing him a new Quintilian which I had bought. He opened it, and began translating aloud. Disagreeing with his translation of some technical word, I called his attention to it. He heard what I had to say, and said little in return. The next day he came armed with authorities, and challenged me to support my position. I found some authorities on my side; but I think he did not let me rest for weeks, nor until we had between us brought everything in the books to bear upon the question. The result was, that I was convinced he was right at first.

"Nothing pleased him more than to bring his classics to bear upon his daily pursuits. He quoted Latin and Greek to juries, sometimes much to their astonishment. He wished to be such a legal orator as Demosthenes and Cicero. He used to say that if he desired to form a *nisi-prius* lawyer, he should make him, above all, study Quintilian. He delighted in Thucydides as illustrating the great question of confederation or disunion between small republics. These authors, and Homer and Horace for relaxation, and Tacitus for comparison with Thucydides as a philosophical historian, were his favorite and principal classical reading.

"Greek history was a constant study with him. I have no doubt that at one time he meditated a work upon it, and sketched some plans and collected some materials. He was always enthusiastic upon this subject. I shall never forget the animation with which, finding his son, Rufus, and myself reading the part of Herodotus preceding the first Persian war, he broke out with, 'You are just seeing the curtain rising on the great drama.'

"Mr. Choate's activity was, as you know, perfectly restless. He could not endure anything that seemed like trifling with time. Formal dinner parties, unless they were also feasts of reason, he studiously eschewed. The mere conventionalities of society bored him.

"Unceasing as was his labor, he was, nevertheless, a great procrastinator. He could not prepare his cases for trial weeks and months in advance, as is the habit of some of our lawyers. He said to me once, 'I cannot get up the interest until the

struggle is close at hand, then I think of nothing else till it is over.' He has sometimes been known not to have put a word of an oration on paper, at a time when the day of delivery was so near that an ordinary man would have thought the interval even too short for mere revision and correction. But he was seldom caught actually unprepared. The activity of the short period of preparation was intense; and as at some time or other in his life he had studied almost everything, and as he never forgot anything that he once knew, his amount and range of acquisition gave him a reserved force for every emergency, which could be brought into instant use. Moreover, his grasp of a subject was so immediate, that he did as much in a moment as another could in a day. He would sometimes be retained in a cause just going to trial, and before his junior had finished his opening, Mr. Choate would seem to know more about that case than any other man in the court-room. His mental rapidity showed itself in everything. It was wonderful to see him run through the leaves of a series of digests, and strike at a glance upon what would most strongly avail him, and reject the weak or irrelevant. So in all his reading he distilled the spirit (if there was any) instantly from any dilution."

Mr. Choate's life at home was the most hearty, cheerful, and affectionate that could be imagined. He was kind, familiar, and playful with his children, full of jocoseness, sensitive, and with a feminine susceptibility and tact. When his daughters, from out of town, came into the house, if he were in his library, unless they came to see him at once, he would generally walk to the head of the stairs, and call their attention for a moment to himself, by uttering some jocose remark, or a familiar quotation, a little changed to suit his purpose, such as, "Did Ossian hear a voice?" then, after exchanging a few words, would retreat to his work. He was very fond of music, especially sacred music. Every Sunday evening, after tea, he would gather his children around the piano, and occasionally joining, have them sing to him the old psalm-tunes and chants. In his last illness, when at Dorchester, his children would sing to him almost every night. It was not thought of till he had been there for a week or two, but one

evening they all sang at his request, and he slept much better after it than he had done for a long time. Every night after that the concert was repeated. He loved martial, stirring music, too. The "Marseillaise," and "God save the Emperor," and all national airs, were favorites. A Turkish march (so called) always pleased him, because, under its little spell, he saw "The Turkish moons wandering in disarray." It always troubled him that there was no Italian national air. His imagination gave life to whatever he read, and he instinctively realized the pictures of poets and the narratives of historians. Reading Campbell's "Battle of the Baltic," he remarked on the line,

"It was ten of April morn by the chime,"

how vividly it brought to one's mind the peaceful, calm proximity of the city, — the water's unruffled surface, — the piers crowded with anxious faces to witness the great sea-fight, as the sound of the bells of Copenhagen came over the waters.

One of his daughters said to him that "The Soldier's Dream" was a sad thing to her, owing to the uncertainty whether the dream was ever realized. He said his understanding of it was, that "Thrice ere the morning I dreamt it again" signified that it came to pass, referring in proof to some popular belief in a dream thrice dreamed before morning coming true.

He often read aloud passages from the newspapers which interested him, interspersing them with remarks or familiar quotations. At the time of Louis Philippe's flight, he read the account at table, uttering after every few sentences, as if it were in the paper, "What shadows we are and what shadows we pursue!" So, after the death of Nicholas he read it aloud, adding in the same tone a verse of the Psalms: "I have said ye are gods, but ye shall die like men and perish like one of the princes."

He had more than a feminine sensitiveness to physical suffering. From this, some presumed to doubt his courage, though I know not with what reason. His moral courage certainly could not be questioned. He was bold enough for his clients, and his independence in forming and maintaining his political creed was thought by some of his friends to be carried even to an extreme.

It seemed as if nobody was ever so gentle and sweet-hearted and tender of others as he. And when we consider the constant provocations of his profession, — his natural excitability, — the ardor with which he threw himself into a case, — the vigor and tenacity of purpose with which he fought his battles, — as well as his extreme sensitiveness to sharp and unkind words, — it seems little less than a miracle. "He lavished his good nature," it was truly said, "upon all around him, — in the court and the office, — upon students, witnesses, servants, strangers." He was so reluctant to inflict pain that he would long endure an annoyance, — as of a troublesome and pertinacious visitor, — or put himself to considerable inconvenience in escaping from it, rather than to wound the feelings of another by a suggestion.

Though sometime ruffled, he

> "Carried anger as the flint bears fire,
> Which, much enforcèd, shows a hasty spark,
> And straight is cold again."

He never spoke ill of the absent, nor would suffer others to do so in his presence. He was affectionate, obliging, desirous to make every one about him happy, — with strong sympathy for any one in trouble. Hence it was almost impossible for him to refuse a client in distress who strongly desired his aid.

Dr. Adams, in his Funeral Address, tells a characteristic little anecdote. "He had not walked far, one morning a few years ago, he said, and gave as a reason, that his attention was taken by a company of those large creeping things which lie on their backs in the paths as soon as the light strikes them. 'But of what use was it for you to help them over with your cane, knowing that they would become supine again?' — 'I gave them a fair start in life,' he said, 'and my responsibility was at an end.' He probably helped to place more people on their feet than otherwise; and no one has enjoyed it more than he."

Though friendly with all, he had few or no intimates. He did not, as has been said, permit himself to indulge freely in what is called "society," finding the draught too much upon his leisure and his strength; yet few received or conferred more pleasure in the unrestrained freedom of conversation.

"Mr. Choate's conversational power," says Mr. Justice Chapman, "was scarcely less remarkable than his forensic power. It was by no means limited to the subject of oratory. Indeed, so far as my acquaintance with him is concerned, he never made that a prominent topic of conversation; but I recollect one of his conversations on eloquence. He was talking of Burke's speeches, of which he was known to be a great admirer, and remarked to a friend of mine who was extolling Burke above all other men, that he thought on the whole that the most eloquent and mellifluous talk that was ever put together in the English language was the speech of Mr. Standfast in the river. I went home and read the speech soon afterwards, and I confess I appreciated John Bunyan's eloquence as I never had done before.

"But it never occurred to me that Mr. Choate had any conversational hobby of any kind. He was interested in all current topics, — political, social, moral, or religious, — and there seemed to be nothing in literature, history, philosophy, or jurisprudence, that he did not know; and in his private conversation I always thought he was very frank. When I called on him, whether alone or with a friend, I generally found him standing at his desk, pen in hand. The moment he left it, he turned with freshness to whatever topic came up; generally throwing himself upon his lounge, and entering into general conversation, or the details of a new case, as if it were a recreation. He was remarkably original and brilliant in his badinage; and I have thought he was rather fond of saying in playfulness what he would not have said seriously, and what it would be unjust towards him to repeat, — though he never transcended the limits of delicacy and good taste. On a few occasions his conversation turned on religious faith and doctrines. I have never met with a layman whom I thought to be more familiar with theological science than he. I am sure he understood the points on which the debates of the present day turn, and the arguments by which controverted doctrines are supported. I think he was a thorough believer in the doctrines preached by his pastor, Rev. Dr. Adams. He was an admirer of Edwards, and on one occasion he spoke familiarly of his 'History of Redemption' and his 'Treatise on the Will.' He had at his tongue's end a refutation of Panthe-

ism, and talked freely of its logical and moral bearings. Yet, while he seemed to be master of all the subtleties of polemic debates, he never seemed inclined to controversy; and I can readily believe that he would gracefully and skilfully turn the subject aside when in conversation with a gentleman holding theological opinions widely different from his own. . . . .

"Among other things I have heard him express a high opinion of the ecclesiastical organization and theological system of the old Puritans, as having contributed largely to stamp upon New England character the best of its peculiar features."

It is undoubtedly true that among his many studies he had not neglected a somewhat critical examination of the Holy Scriptures. He was quite familiar with the arguments for the genuineness and authenticity of the various books, even to the minor Epistles of Paul; and not many clergymen probably could readily bring up such an array of learning on this subject as he had at perfect command.

Mr. Choate's handwriting was famous for obscurity. It was impossible for one not familiar with it to decipher its intricacies, and in his rapid notes, with abbreviations and unfinished words, for any one but himself to determine the meaning; and even he, when the subject was forgotten, sometimes was at a loss. And yet, when closely examined, it will be seen not to be a careless or stiff or angular scrawl; each letter is governed by a law and seems striving to conform to the normal type; and it has been observed by one much accustomed to criticise penmanship, the lines have certain flowing, easy, and graceful curves, which give a kind of artistic beauty.

Mr. Choate was a little more than six feet in height; his frame robust, strong, and erect; his walk rapid, yet easy and graceful, and with a force, too, that seemed to bear onward not only himself but all about him; his head was covered with a profusion of black curling hair, to the last with but a slight sprinkle of gray; his eye was dark, large, and, when quiet, with an introverted, meditative look, or an expression dreamy and rapt, as of one who saw afar off what you could not see;[1]

[1] When aroused or interested, his eye gleamed and was very powerful. A woman, who had some reputation as a fortune-teller, once came to consult him. She had not proceeded far in her story before she suddenly broke off with the exclamation, "Take them eyes off of me, Mr. Choate, take them witch eyes off of me, or I can't go on."

his smile was fascinating, and his whole manner marked with peculiar and inimitable grace. "He gave you a chair," said Rev. Dr. Adams in his Funeral Address, "as no one else would do it. He persuaded you at his table to receive something from him, in a way that nothing so gross as language can describe. He treated every man as though he were a gentleman; and he treated every gentleman almost as he would a lady." His whole appearance was distinguished; and though he always, with instinctive modesty, avoided notice, he never failed to attract it even among strangers.

With the exception of the time when he suffered from the accident to his knee, he was never seriously ill; but during his whole life he was subject to frequent and severe headaches, which for the time quite disabled him. His nervous system was always in a state of excitement; his brain was never at rest, — the *perfervidum ingenium* allowing him no quiet. Liberal of work, impatient of repose, intense in action, sparing of recreation, — the wonder is that his powers had not earlier given way, perhaps with a sudden crash, or with a longer, more wearisome, more mournful descent to the dark valley. For many years before his death, his countenance was haggard, and the lines became deeper and deeper with age. A vague rumor began to assume consistency, that he indulged in the use of opium. The conjecture was entirely false. His physicians have given me their direct testimony on this point. A Dover's powder would at any time put him to sleep. If farther proof were needed, we have it in his never ceasing labors, in the constant command of his faculties, early and late, which failed only with his life, and in his own positive denial of the truth of the injurious report. He was temperate, and almost abstemious in eating and drinking; rarely indulging in stimulants, and never using them to excess.

During the latter years of Mr. Choate's life, his mind, never indifferent to religious subjects, was inclined more than ever to the consideration of man's nature and destiny, his moral duties, and his relations to God. He had an implicit faith in the Christian religion; and felt a confidence so sure in that form of it which he had been early taught, that he did not care to disturb his belief by rash and objectless specu-

lation. He regarded the ancient symbols, especially as held by the Fathers of New England, with profound respect and acquiescence. He felt the need of some creed or formulary of religious belief which should hold the mind firm and unwavering amidst the vagaries and fluctuations of human opinions; and a serious deviation from the old and established ways was fraught with he knew not how much error.

He retained also an instinctive regard for the old habits and practices of his father's house. Though extremely indulgent, he preferred to have his children at home and quiet on a Saturday evening, and engaged in thoughtful and serious employments. When prayers were read in the family, he was particular that all should be present. Though never making a public profession of religious faith, he often expressed satisfaction when others did so, and showed beyond mistake, in many ways, his respect and veneration for a truly religious character. His religious reading, not only of speculative and philosophical, but of practical works, was quite general, and for many of his later years, constant and habitual. Unlike many men of eminence, he was specially averse to conversing about himself. There was a sacred chamber in his soul which he opened only to a few of his most intimate friends, and hardly to them. There he must be safe from the intrusion, even of those who might have some claim to enter. In personal intercourse, up to a certain point, he seemed without reserve, as he really was; beyond it, the most astute diplomatist could not be more impenetrable or elusive. This was not the result of calculation or of will, but instinctive, — a part of his idiosyncrasy. It was surprising, and almost wonderful, with what ease and certainty he repelled an attempt to penetrate the sanctuary of his feelings, and yet with such gentleness that the intruder at first hardly perceived it, and only discovered on reflection that he had not succeeded. He seldom asked advice, or depended on the judgment of others, in determining his own course of action. If this was true with relation to social or public life, it was more emphatically true of his religious faith. His personal belief and hopes you must infer from what he was, from the affections and sentiments which he habitually expressed, from the serious tenor of his life, and from his rare and casual conversations with the few

who were most in sympathy with him. To those with whom he disagreed he was always courteous and deferential, and might sometimes even appear indifferent as to theological opinions; but a discussion with such was impossible. The faith of his father and mother was his to the last, and perhaps more decidedly at the last than ever before.

He left us still in the prime and vigor of his days at an age when many retire from the heated strifes of the summer of life to a serener autumn. But it is doubtful whether he could have been contented without labor, and whether he would not of necessity have continued at his post till mind or body gave way. He was spared longer than many whose names will always be cherished, — longer than James Otis, longer than Fisher Ames, longer than Alexander Hamilton, or William Pinkney, or Samuel Dexter, or Justice Talfourd. He died in the fulness of his fame, having won the universal respect and love of his contemporaries. He died before his patriotic fears were in any measure realized; the country which he so profoundly loved still united; no treason consummated; no crime against the fairest hopes of the world actually committed; no rash counsels carried over into desperate act; no stripe polluted or erased, no star blotted out, from the flag which to the last was his joy and pride.

LECTURES AND ADDRESSES.

LECTURES AND ADDRESSES.

THE IMPORTANCE OF ILLUSTRATING NEW-ENGLAND HISTORY BY A SERIES OF ROMANCES LIKE THE WAVERLEY NOVELS.

[DELIVERED AT SALEM, 1838.]

THE history of the United States, from the planting of the several Colonies out of which they have sprung, to the end of the war of the Revolution, is now as amply written, as accessible, and as authentic, as any other portion of the history of the world, and incomparably more so than an equal portion of the history of the origin and first ages of any other nation that ever existed. But there is one thing more which every lover of his country, and every lover of literature, would wish done for our early history. He would wish to see such a genius as Walter Scott, (*exoriatur aliquis,*) or rather a thousand such as he, undertake in earnest to illustrate that early history, by a series of romantic compositions, "in prose or rhyme," like the Waverley Novels, the Lay of the Last Minstrel, and the Lady of the Lake, — the scenes of which should be laid in North America, somewhere in the time before the Revolution, and the incidents and characters of which should be selected from the records and traditions of that, our heroic age. He would wish at length to hear such a genius mingling the tones of a ravishing national minstrelsy with the grave narrative, instructive reflections, and chastened feelings of Marshall, Pitkin, Holmes, and Ramsay. He would wish to see him giving to the natural scenery of the New World, and to the celebrated personages and grand incidents of its earlier annals, the same kind and degree of interest which Scott has given to the Highlands, to the Reformation, the Crusades, to Richard the Lion-hearted, and to Louis XI. He would wish to see

him clear away the obscurity which two centuries have been collecting over it, and unroll a vast, comprehensive, and vivid panorama of our old New-England lifetimes, from its sublimest moments to its minutest manners. He would wish to see him begin with the landing of the Pilgrims, and pass down to the war of Independence, from one epoch and one generation to another, like Old Mortality among the graves of the unforgotten faithful, wiping the dust from the urns of our fathers, — gathering up whatever of illustrious achievement, of heroic suffering, of unwavering faith, their history commemorates, and weaving it all into an immortal and noble national literature, — pouring over the whole time, its incidents, its actors, its customs, its opinions, its moods of feeling, the brilliant illustration, the unfading glories, which the fictions of genius alone can give to the realities of life.

For our lawyers, politicians, and for most purposes of mere utility, business, and intellect, our history now perhaps unfolds a sufficiently "ample page." But, I confess, I should love to see it assume a form in which it should speak directly to the heart and affections and imagination of the whole people. I should love to see by the side of these formidable records of dates, and catalogues of British Governors, and Provincial acts of Assembly, — these registers of the settlement of towns, and the planting of churches, and convocation of synods, and drawing up of platforms, — by the side of these austere and simply severe narratives of Indian wars, English usurpations, French intrigues, Colonial risings, and American independence; — I should love to see by the side of these great and good books, about a thousand neat duodecimos of the size of Ivanhoe, Kenilworth, and Marmion, all full of pictures of our natural beauty and grandeur, — the still richer pictures of our society and manners, — the lights and shadows of our life, — full of touching incidents, generous sentiments, just thoughts, beaming images, such as are scattered over everything which Scott has written, as thick as stars on the brow of night, and give to everything he has written that imperishable, strange charm, which will be on it and embalm it forever.

Perhaps it is worthy even of your consideration, whether this is not a judicious and reasonable wish. I propose, therefore, as the subject of a few remarks, this question: — Is it

not desirable that a series of compositions of the same general character with the novels and poems of Scott, and of equal ability, should be written in illustration of the history of the North American United States prior to the peace of 1783?

I venture to maintain *first*, that such works as these would possess a very high historical value. They would be valuable for the light they would shed upon the first one hundred and fifty years of our Colonial existence. They would be valuable as helps to history, as contributions to history, as real and authoritative documents of history. They would be valuable for the same reason that the other, more formal and graver records of our history, are so, if not quite in the same degree.

To make this out, it may be necessary to pause a moment and analyze these celebrated writings, and inquire what they contain, and how they are made up. It is so easy to read Scott's Novels that we are apt to forget with how much labor he prepared himself to *write* them. We are imposed on, startled perhaps, by the words novel and poem. We forget that any one of them is not merely a brilliant and delightful romance, but a deep, well-considered, and instructive essay, on the manners, customs, and political condition of England or Scotland, at the particular period to which it refers. Such is the remark of a foreign critic of consummate taste and learning, and it is certainly just. Let us reverently attempt to unfold the process, — to indicate the course of research and reflection, — by which they are perfected, and thus to detect the secret not so much of their extraordinary power and popularity as of their historical value.

He selects then, I suppose, (I write of him as living; for though dead, he still speaks to the whole reading population of the world,) *first*, the country in which he will lay the scenes of his action, — Scotland, perhaps, or merry England, or the beautiful France. He marks off the portions of that country within which the leading incidents shall be transacted, as a conjurer draws the charmed circle with his wand on the floor of the Cave of Magic. Then he studies the topography of the region, — its scenery, its giant mountains, its lakes, glens, forests, falls of water — as minutely as Malté Brun or Humboldt; but choosing out with a poet's eye, and retaining with a poet's recollection, the grand, picturesque, and

graceful points of the whole transcendent landscape. Then he goes on to collect and treasure up the artificial, civil, historical features of the country. He explores its antiquities, becomes minutely familiar with every city and castle and cathedral which still stands, and with the grander ruins of all which have fallen, — familiar with every relic and trace of man and art, — down even to the broken cistern which the Catholic charity of a former age had hewn out by the way-side for the pilgrim to drink in. He gathers up all the traditions and legendary history of the place, — every story of "hopeless love, or glory won," — with the time, the spot, the circumstances, as particularly and as fondly as if he had lived there a thousand years. He selects *the age* to which his narrative shall refer, — perhaps that of Richard or Elizabeth, or Charles the Second, or of the rebellion of 1745; and forthwith engages in a deep and discursive study of its authentic history and biography, — its domestic and foreign politics; the state of parties; the character and singularities of the reigning king and his court, and of the prominent personages of the day; — its religious condition, the wars, revolts, revolutions, and great popular movements; all the predominant objects of interest and excitement, and all which made up the public and out-of-door life and history of that particular generation. He goes deeper still; — the state of society; the manners, customs, and employments of the people; their dress, their arms, and armor; their amusements; their entire indoor and domestic life; the rank and accomplishments of the sexes respectively; their relations to each other; the extent of their popular and higher education; their opinions, superstitions, morals, jurisprudence and police, — all these he investigates as earnestly as if he were nothing but an antiquarian, but with the liberal, enlightened, and tolerant curiosity of a scholar, philosopher, philanthropist, who holds that man is not only the most proper but most delightful study of man. Thus thoroughly furnished, he chooses an affecting incident, real or imaginary, for his ground-work, and rears upon it a composition, — which the mere novel reader will admire for its absorbing narrative and catastrophe; the critic for its elegant style, dazzling poetry, and elaborate art; the student of human nature for its keen and shrewd

views of man — "for each change of many-colored life he draws;" the student of history for its penetrating development and its splendid, exact, and comprehensive illustration of the spirit of one of the marked ages of the world. And this is a Waverley Novel!

Perhaps I am now prepared to restate and maintain the general position which I have taken, — that a series of North-American or New-England Waverley Novels would be eminently valuable auxiliaries to the authoritative written history of New England and of North America.

In the *first* place, they would embody, and thus would fix deep in the general mind and memory of the whole people, a vast amount of positive information quite as authentic and valuable and curious as that which makes up the matter of professed history, but which the mere historian does not and cannot furnish. They would thus be not substitutes *for* history, but supplements to it. Let us dwell upon this consideration for a moment. It is wonderful when you think closely on it, how little of all which we should love to know, and ought to know, about a former period and generation, a really standard history tells us. From the very nature of that kind of composition it must be so. Its appropriate and exclusive topics are a few prominent, engrossing and showy incidents, — wars, — conquests, — revolutions, — changes of dynasties, — battles and sieges, — the exterior and palpable manifestations of the workings of the stormy and occasional passions of men moving in large masses on the high places of the world. These topics it treats instructively and eloquently. But what an inadequate conception does such a book give you of the time, the country, and the people to which it relates! What a meagre, cold, and unengaging outline does it trace; and how utterly deficient in minute, precise, and circumstantial, and satisfactory information! How little does it tell you of the condition and character of the great body of the people, — their occupations, — their arts and customs, — their joys and sorrows! — how little of the origin, state, and progress of opinions, and of the spirit of the age! — how misty, indistinct, and tantalizing are the glimpses you gain of that old, fair, wonderful creation which you long to explore! It is like a vast landscape painting in which nothing is represented but

the cloven summit and grand sweep of the mountain, — a portion of the sounding shore of the illimitable sea, — the dim distant course of a valley, traversed by the Father of Rivers two thousand miles in length, — and which has no place for the inclosed corn-field, — the flocks upon a thousand hills, — the cheerful country-seat, — the village spires, — the church-yard, — the vintage, — the harvest-home, — the dances of peasants, — and the Cotter's Saturday night!

Now, the use, one use, of such romances as Scott's is to supply these deficiencies of history. Their leading object, perhaps, may be to tell an interesting story with some embellishments of poetry and eloquence and fine writing and mighty dialogue. But the plan on which they are composed requires that they should interweave into their main design, a near, distinct and accurate, but magnified and ornamental view of the times, people, and country to which that story goes back. They are, as it were, telescope, microscope, and kaleidoscope all in one, if the laws of optics permit such an illustration. They give you the natural scenery of that country in a succession of landscapes fresh and splendid as any in the whole compass of literature, yet as topographically accurate as you will find in any geography or book of travels. They cause a crowded but exact and express image of the age and society of which they treat to pass before you as you see Moscow or Jerusalem or Mexico in a showman's box. They introduce genuine specimens, — real living men and women of every class and calling in society, as it was then constituted, and make them talk and act in character. You see their dress, their armor, and their weapons of war. You sit at their tables, — you sleep under their roof-tree, — you fish, hunt, and fowl with them. You follow them to their employments in field, forest and workshop, — you travel their roads, — cross their rivers, — worship with them at church, — pledge them at the feast, and hear their war-cry in battle, and the coronach which announces and laments their fall. Time and space are thus annihilated by the power of genius. Instead of reading about a past age, you live in it. Instead of looking through a glass darkly at vast bodies in the distance, — at the separate, solitary glories of a sky beyond your reach, — wings as of the morning are given you; you ascend to

that sky and gaze on their unveiled present glories. It is as if you were placed in the streets of a city buried 1800 years ago by the lava of a volcano, and saw it suddenly and completely disinterred, and its whole, various population raised in a moment to life, — in the same attitudes, clothed upon with the same bodies, wearing the same dresses, engaged in the same occupations, and warmed by the same passions, in which they perished! It would carry me too far to illustrate these thoughts by minute references to all Scott's poetry and romances, or to attempt to assort the particulars and sum up the aggregate of the real historical information for which we are indebted to that poetry and those romances. Go back, however, at random, to the age of Richard of the Lion Heart, — the close of the twelfth century, the era of chivalry, the Crusades, and almost of Magna Charta. Read of it first in the acute and elegant Hume and the laborious Lingard; and then open the splendid romance of Ivanhoe and see, not which most interests you, but which relates most vividly, most minutely, and most completely, the authentic history of the England of that troubled yet glorious day. The character and peculiarities of the chivalrous Richard, — his physical strength, — his old English good-nature and companionable and convivial qualities and practices, — his romantic love of adventure and peril, and of the rapture of battle (*certaminis gaudia*) relieved and softened by his taste for troubadour music and song, — the cold, jealous, timid temper of his brother John, at once an ambitious usurper and an unprincipled voluptuary, — the intriguing politics of his court, — his agency in procuring Richard's long imprisonment in Germany, and his sudden start of terror on hearing of his escape and return to England to claim his throne, — the separation of the English people of that era into two great distinct and strongly marked races, the Saxon and the Norman, — the characteristic traits and employments of each, — the relations they sustained to each other, — their mutual fear, hatred and suspicion, — the merry lives of Robin Hood and his archers in the forest, — the pride and licentiousness of the bold Norman barons, and the barbaric magnificence of their castles, equipage, and personal decoration, — the contrasted poverty and dignified sorrow of the fallen

Saxon chiefs, — the institutions and rites of a still gorgeous but waning chivalry, — the skilful organization, subtle policy, and imposing exterior of the order of the Templars, — the pride, pomp, and circumstance of the gilded and sounding era of the Crusades, — these topics, this information, — not the well-feigned fortunes of Isaac, Rebecca, Athelstane, Wilfred, — give to the surpassing poetry and painting of this unequalled romance a permanent and recognized historical value, and entitle it to a place upon the same shelf with the more exclusive and pretending teachers of English history.

Let me remind you that Scott is not the only writer of romance who has made his fiction the vehicle of authentic and useful information concerning the past, and thus earned the praise of a great historian. Let me remind you of another instance, the most spendid in literature. The Iliad and Odyssey of Homer, — what are they but great Waverley Novels! And yet what were our knowledge of the first 400 years of Grecian history without them! Herodotus, the father of history, devotes about twenty-five duodecimo lines to the subject of the Trojan Wanderer; and without meaning any disrespect to so revered a name, — so truly valuable a writer, — I must say that this part of his narrative is just about as interesting and instructive as an account in a Castine newspaper, that in a late, dark night a schooner from Eastport got upon Mt. Desert Rock, partly bilged, but that no lives were lost, and there was no insurance. Unroll now, by the side of this, the magnificent cartoons on which Homer has painted the heroic age of the bright clime of Battle and of Song! Abstracting your attention for a moment from the beauty and grandeur and consummate art of these compositions, — just study them for the information they embody. We all know that critics have deduced the rules of epic poetry from these inspired models; and Horace tells us that they are better teachers of morality than the Stoic doctors — Chrysippus and Crates. But what else may you learn from them? The ancient geography of Greece, — the number, names, localities, and real or legendary history of its tribes, — the condition of its arts, trades, agriculture, navigation, and civil policy, — its military and maritime resources, — its manners and customs, — its religious opinions and observances, and mythology and festivals; — this

is the information for which we are indebted to an old wandering, blind harper, — just such another as he who sang the Lay of the Last Minstrel to the ladies of Newark Castle. This is the authority on which Potter has compiled his Antiquities, and Mitford the first three chapters of his History. And surely, to use the words of an elegant writer, surely "such an apocalypse of life," — its energetic passions, its proud desires, its quiet enjoyments, its sincere affections, its wasting griefs, its towering course and mournful end, — "was never communicated by another human imagination."

It is time now to turn to our early history, and consider more directly in what way and to what extent *our* Iliad and Odyssey, and Ivanhoe and Kenilworth, when they come to be written, will help to illustrate and to complete and to give attraction to that history. Select then, for this purpose, almost at random, any memorable event or strongly marked period in our annals. King Philip's War is as good an illustration as at this moment occurs to me. What do our historians tell us of that war? and of New England during that war? You will answer substantially this: It was a war excited by Philip, — a bold, crafty, and perfidious Indian chief dwelling at Bristol, in Rhode Island, — for the purpose of extirpating or expelling the English colonists of Massachusetts, Plymouth, Connecticut and New Haven. It began in 1675 by an attack on the people of Swanzey, as they were returning on Sunday from meeting. It ended in August, 1676, at Mount Hope by the death of Philip, and the annihilation of his tribe. In the course of these two years he had succeeded in drawing into his designs perhaps fifteen or twenty communities of Indians, and had at one time and another, perhaps, eight or ten thousand men in arms.

The scenes of the war shifted successively from Narraganset Bay to the northern line of Massachusetts in the valley of the Connecticut River. But there was safety nowhere; there was scarcely a family of which a husband, a son, a brother, had not fallen. The land was filled with mourning. Six hundred dwelling-houses were burned with fire. Six hundred armed young men and middle-aged fell in battle; as many others, including women and children, were carried away into that captivity so full of horrors to a New-England imagina-

tion; the culture of the earth was interrupted; the prayers, labors, and sufferings of half a century were nearly forever frustrated.

Such is about the whole of what history records, or rather, of what the great body of our well-educated readers know, of the New England of 1675, and of the severest and most interesting crisis through which, in any epoch, the colony was called to pass. Now, I say, commit this subject, — King Philip's War, — to Walter Scott, the poet, or the novelist, and you would see it wrought up and expanded into a series of pictures of the New England of that era, — so full, so vivid, so true, so instructive, so moving, that they would grave themselves upon the memory, and dwell in the hearts of our whole people forever. How he would do this, — precisely what kinds of novels and poems he would write, —

> "What drugs, what charms,
> What conjuration, and what mighty magic"

he would deal in to effect this purpose, it would be presumptuous in me to venture fully to explain. Some imperfect and modest conjectures upon this point, however, I hope you will excuse.

In the first place, he would collect and display a great many particulars of positive information concerning these old times, either not contained at all in our popular histories, or not in a form to fix the attention of the general reader. He would spread out before you the external aspects and scenery of that New England, and contrast them with those which our eyes are permitted to see, but which our fathers died without beholding. And what a contrast! The grand natural outline and features of the country were indeed the same then as now, and are so yesterday, to-day, and always. The same waves dashed high upon the same "stern and rock-bound coast;" the same rivers poured their sweet and cheerful tides into the same broad bay; the same ascending succession of geological formations, — the narrow, sandy belt of sea-shore and marsh and river intervals, — the wider level of upland, — the green or rocky hill, — the mountain baring its gray summit to the skies, — met the eye then as now; the same east wind chilled the lingering spring; the same fleecy clouds, bland south-west, yel-

low and crimson leaf, and insidious disease, waited upon the coming in of autumn. But how was it in that day with those more characteristic, changeful, and interesting aspects which man gives to a country? These ripened fruits of two hundred years of labor and liberty; these populous towns; this refined and affluent society; these gardens, orchards, and cornfields; these manufactories and merchant ships, — where were they then? The whole colonial population of New England, including Massachusetts, Plymouth, Connecticut, New Haven, Maine, New Hampshire, at the breaking out of that war, has been variously estimated at from 40,000 to 120,000. I suppose that 80,000 may be a fair average of these estimates, — a little less than the present population of the single county of Essex. They were planted along the coast from the mouth of the Kennebec to New Haven, upon a strip of country of a medium width, inwards from the sea, of forty or fifty miles, — a great deal of which, however, was still wholly unreclaimed to cultivation, and much of it still occupied by its original and native owners. This belt of sea-coast — for it was no more than that — was the New England of 1675. Within this belt, and up the interval land of some of the rivers — the Merrimack, the Charles, the Connecticut — which passed down through it to the sea, a few settlements had been thrown forward; but as a general fact, the whole vast interior to the line of New York, Vermont, and Lower Canada, including in Massachusetts a part of the counties of Essex, Middlesex, Worcester, Old Hampshire, Berkshire, was a primeval wilderness, beneath whose ancient shadow a score of Indian tribes maintained their fires of war and council, and observed the rites of that bloody and horrible Paganism which formed their only religion.

On this narrow border were stretched along the low wooden houses with their wooden chimneys; the patches of Indian corn crossed and enclosed by the standing forest; the smooth-shaven meadow and salt marsh; the rocky pasture of horses, sheep, and neat cattle; the fish-flakes, lumber-yards, the fishing boats and coasting shallops; West India and Wine Islands merchant-ships; the meeting-houses, windmills, and small stockade forts, — which made up the human, artificial, and visible exterior of the New England of that era. Altogether

the whole scene, in its natural and in its cultivated elements, was in exact keeping with the condition and character and prospects of that generation of our ancestors. It was the dwelling place of the Pilgrims, and of the children of the Pilgrims. There lay, — covered over as it were, partially sheltered, yet not wholly out of danger, like the sowing of a winter grain, — the germs of this day's exceeding glory, beauty, and strength. There rose, plain, massive, and deep-set, the basement stories of our religious, civil, and literary institutions, beaten against and raged around by many a tempest and many a flood, — yet not falling, for their foundation was a rock. Fifty years of continual emigration from England, and of general peace and general health, had swelled the handful of men who came passengers in The Mayflower to Plymouth, and in The Abigail to Salem, and in The Arabella to Boston, into an infant people. Independence of the mother country had hardly yet entered the waking or sleeping dreams of any man; but, as against all the world besides, they had begun to utter the language, put on the habits, and assume the port, of a nascent and asserted sovereignty and national existence. Some portion of the great work which they were sent hither to do they had already done. They had constructed a republican, representative government. They had made provision for the mental and moral culture of the rising nation. Something of the growth of a half-century of industry, — "immature buds, blossoms fallen from the tree, and green fruit," — were beginning to gladden the natural and the moral prospect. Still the general aspect of the scenery of that day, even if surveyed from one of those eminences which now rise in so much beauty around Boston, would have seemed to the senses and imagination of a beholder wild, austere, and uninviting. The dreams of some of the sanguine, early settlers were by this time finished. It had been discovered by this time that our soil contained neither gold nor silver, and that although we could purchase very good wine at Fayal or Madeira, with the proceeds of the fish we sold at Bilboa, we were not likely to quite rival Hungary, as Master Grave, the engineer, in 1629, thought we should in the domestic article. The single damask rose grew wild by the walls, as Mr. Higginson says it did in his time; but all felt by the year 1675

that it was, on the whole, a somewhat ungenial heaven beneath which their lot was cast, yielding nothing to luxury and nothing to idleness, but yet holding out to faith, to patience, and labor, freedom and public and private virtue, the promise of a latter day far off of glory, honor, and enjoyment. Everything around you spoke audibly to the senses and imagination of toil and privation, of wearisome days and sleepless nights, of serious aims, grave duties, and hope deferred without making the heart sick. You looked upon the first and hardest conflicts of civilized man with unreclaimed nature and uncivilized man. You saw all around you the blended antagonist manifestations and insignia of a divided empire. Indian wigwams and the one thousand houses of Boston sent up their smoke into the same sky. Indian canoes and the fishing and coasting craft and merchantmen, loading for Spain and Africa and the West Indies, floated upon the same waters. English grain and grasses grew among the blackened stumps of the newly fallen forest. Men went armed to their fields, to meeting, and to bring home their brides from their father's house where they had married them. It was like the contest of Winter and Spring described by Thomson, or like that of the good and evil principle of the Oriental superstitions; and it might at first seem doubtful which would triumph. But when you contemplated the prospect a little more closely, — when you saw what costly and dear pledges the Pilgrims had already given to posterity and the new world, — when you saw the fixtures which they had settled into and incorporated with its soil, the brick college at Cambridge, and the meeting-houses sending up their spires from every clearing, — when you surveyed the unostentatious but permanent and vast improvements which fifty years had traced upon the face of that stern and wild land, and garnered up in its bosom, — when you looked steadfastly into the countenances of those men, and read there that expression of calm resolve, high hope, and fixed faith, — when you heard their prayers for that once pleasant England as for a land they no longer desired to see; for the new world, now not merely the scene of their duties but the home of their heart's adoption, — you would no longer doubt that, though the next half-century should be, as it proved, a long, bloody warfare, — though the mother country should

leave them, as she did, to contend single-handed with Indians, French, and an unpropitious soil and sky,—though acts of navigation and boards of trade should restrain their enterprise and rob it of its rewards,—that their triumph was still certain, and a later generation would partake of its fruits and be encompassed about by its glory. A thousand instructive particulars would be collected by such an antiquarian as the author of Old Mortality, serving to illustrate the employments, customs, and character of this portion of our ancestors, and embodied in such a form as to become permanently a part of the current knowledge of an educated people. The industry of New England in 1675 had taken almost all the great leading directions in which it afterwards exerted itself with such splendid success. There were then nearly five hundred fishing vessels, large and small, in the four colonies. The export of fish to the north of Spain, to Fayal and Madeira, and of lumber, pipe-staves, provisions, naval stores, and neat cattle, to the West Indies, and the import of wines and West India goods employed from one to two hundred vessels more, of a larger rate, built and owned in New England. The principal import of British goods was to Boston, whence they were shipped coastwise to Maine, Hartford, and New Haven. Linen, woollen, and cotton cloth, glass, and salt, to some extent, were manufactured in Massachusetts. The flax was all raised here; the wool chiefly; the cotton was imported. The equality of fortunes was remarkable even for that age of simple habits, and general industry and morality. There were only fifteen or twenty merchants worth five hundred pounds each; and there were no beggars. The most showy mansion contained no more than twenty rooms; but the meanest cottage had at least two stories,—a remarkable improvement since 1629, when the house of the Lady Moody, a person of great consideration in Salem, is said to have been only nine feet high, with a wooden chimney in the centre. Gov. Winthrop says in his Journal, that he spent in the years he was governor, five hundred pounds per annum, of which two hundred pounds,—not seven hundred dollars,—would have maintained him in a private condition. There were no musicians by trade; a dancing-school was attempted, but failed. But a fencing-school in Boston succeeded eminently; we all know that fenc-

ing, without foils or tuition-fees, was the daily and nightly exercise of the youth and manhood of the colonies for half the first century of their existence. It is strikingly characteristic of our fathers of that day of labor, temperate habits, and austere general morality, that a synod convened in 1679 to inquire what crying sin of practice or opinion had brought down the judgment of God on the colonies, ascribed it very much to the intemperate and luxurious habits of what they deemed a backsliding and downward age. Hubbard reckons among the moral causes of that war, the pride, intemperance, and worldly-mindedness of the people; and another writer of that day denounces with most lachrymose eloquence the increasing importations of wine, threatening the Ararat of the Pilgrims with a new kind of deluge.

This last writer reminds us of a story which John Wilkes, I think, tells in Boswell's Johnson, that he once attended a Sunday meeting in the interior of Scotland when the preacher declaimed most furiously, for an hour, against luxury, although, said Wilkes, there were not three pairs of shoes in the whole congregation!

There are two or three subjects, among a thousand others of a different character, connected with the history of New England in that era, which deserve, and would reward, the fullest illustration which learning and genius and philosophy could bestow. They have been treated copiously and ably; but I am sure that whoso creates the romantic literature of the country will be found to have placed them in new lights, and to have made them for the first time familiar, intelligible, and interesting to the mass of the reading community.

Let me instance as one of these the *old Puritan character*. In every view of it, it was an extraordinary mental and moral phenomenon. The countless influences which have been acting on man ever since his creation, — the countless variety of condition and circumstances, of climate, of government, of religion, and of social systems in which he has lived, never produced such a specimen of character as this before, and never will do so again. It was developed, disciplined, and perfected for a particular day and a particular duty. When that day was ended and that duty done, it was dissolved again into its elements, and disappeared among the common forms

of humanity, apart from which it had acted and suffered, — above which it had towered, yet out of which it had been by a long process elaborated. The *human* influences which combined to form the Puritan character from the general mind of England, — which set this sect apart from all the rest of the community, and stamped upon it a system of manners, a style of dress and salutation and phraseology, a distinct, entire scheme of opinions upon religion, government, morality, and human life, marking it off from the crowds about it, as the fabled waters of the classical fountain passed underneath the sea, unmingled, unchanged in taste or color, — these things are matters of popular history, and I need not enumerate or weigh them. What was the *final* end for which the Puritans were raised up, we also in some part all know. All things here in New England proclaim it. The works which they did, these testify of them and of the objects and reality of their mission, and they are inscribed upon all the sides of our religious, political, and literary edifices, legibly and imperishably.

But while we appreciate what the Puritans have done, and recognize the divine wisdom and purposes in raising them up to do it, something is wanting yet to give to their character and fortunes a warm, quick interest, a charm for the feelings and imagination, an abiding-place in the heart and memory and affections of all the generations of the people to whom they bequeathed these representative governments and this undefiled religion. It is time that literature and the arts should at least coöperate with history. Themes more inspiring or more instructive were never sung by old or modern bards in hall or bower. The whole history of the Puritans — of that portion which remained in England and plucked Charles from his throne and buried crown and mitre beneath the foundations of the Commonwealth, and of that other not less noble portion which came out hither from England, and founded a freer, fairer, and more enduring Commonwealth — all the leading traits of their religious, intellectual, and active character, their theological doctrines, their superstitions, their notions of the divine government and economy, and of the place they filled in it, — everything about them, everything which befell them, — was out of the ordinary course of

life; and he who would adequately record their fortunes, display their peculiarities, and decide upon their pretensions, must, like the writer of the Pentateuch, put in requisition alternately music, poetry, eloquence, and history, and speak by turns to the senses, the fancy, and the reason of the world.

They were persecuted for embracing a purer Protestantism than the Episcopacy of England in the age of Elizabeth. Instead of ceasing to be Protestants, persecution made them republicans, also. They were nicknamed Puritans by their enemies; then afterward they became a distinct, solitary caste, — *among*, but not of, the people of England. They were flattered, they were tempted, they were shut up in prison, they were baptized with the fire of martyrdom. Solicitation, violence, were alike unavailing, except to consolidate their energies, perfect their virtues, and mortify their human affections, — to raise their thoughts from the kingdoms and kings of this world, and the glory of them, to the contemplation of that surpassing glory which is to be revealed. Some of them at length, not so much because these many years of persecution had wearied or disheartened them, as because they saw in it an intimation of the will of God, sought the freedom which there they found not, on the bleak sea-shore and beneath the dark pine-forest of New England. History, fiction, literature, does not record an incident of such moral sublimity as this. Others, like Æneas, have fled from the city of their fathers after the victor has entered and fired it. But the country they left was peaceful, cultivated, tasteful, merry England. The asylum they sought was upon the very outside of the world. Others have traversed seas as wide, for fame or gold. Not so the Puritans.

> "Nor lure of conquest's meteor beam,
> Nor dazzling mines of fancy's dream,
> Nor wild adventure's love to roam,
> Brought from their fathers' ancient home,
> O'er the wide sea, the Pilgrim host."

It was fit that the founders of our race should have been such men, — that they should have so labored and so suffered, — that their tried and strenuous virtues should stand out in such prominence and grandeur. It will be well for us when

their story shall have grown "familiar as a household word," when it shall make even your children's bosoms glow and their eyes glisten in the ballad and nursery-tale, and give pathos and elevation to our whole higher national minstrelsy.

There is another subject connected with our early history eminently adapted to the nature and purposes of romantic literature, and worthy to be illustrated by such a literature, — that is, the condition, prospects, and fate of the New England tribes of Indians at the epoch of Philip's War. It has sometimes been remarked as a matter of reproach to a community, that it has suffered its benefactors to perish of want, and then erected statues to their memory. The crime does not lie in erecting the statue, but in having suffered the departed good and great, whom it commemorates, to perish. It has been our lot in the appointments of Providence to be, innocently or criminally, instruments in sweeping from the earth one of the primitive families of man. We build our houses upon their graves; our cattle feed upon the hills from which they cast their last look upon the land, pleasant to them as it is now pleasant to us, in which through an immemorial antiquity their generations had been dwelling. The least we can do for them, for science and letters, is to preserve their history. This we have done. We have explored their antiquities, studied and written their language and deduced its grammar, recorded their traditions, traced their wanderings, and embodied in one form or another their customs, their employments, their superstitions, and their religious belief. But there is in this connection one thing which, perhaps, poetry and romance can alone do, or can best do. It is to go back to the epoch of this war, for example, — paint vividly and affectingly the condition of the tribes which then wandered over, rather than occupied, the boundless wilderness extending from the margin of sea-coast covered by the colonists to the line of New York and Canada. The history of man, like the roll of the Prophet, is full, within and without, of mourning, lamentation, and woe; but I do not know that in all that history there is a situation of such mournful interest as this.

The terrible truth had at length flashed upon the Indian chief, that the presence of civilization, even of humane, peaceful, and moral civilization, was incompatible with the existence

of Indians. He comprehended at length the tremendous power which knowledge, arts, law, government, confer upon social man. He looked in vain to the physical energies, the desperate, random, uncombined, and desultory exertions, the occasional individual virtues and abilities of barbarism, for an equal power to resist it. He saw the advancing population of the Colonies. He saw ship-loads of white men day after day coming ashore from some land beyond the sea, of which he could only know that it was over-peopled. Every day the woodman's axe sounded nearer and nearer. Every day some valuable fishing or hunting-ground, or corn-land, or meadow, passed out of the Indian possession, and was locked up forever in the mortmain grasp of an English title. What then, where then, was the hope of the Indian? Of the tribes far off to the East, — the once terrible Tarrateens, — they had no knowledge, but more dread than of the English themselves. The difficulty of communication, the diversity of languages, the want of a press, the unsocial habits and policy of all nomadic races, made alliances with the Five Nations in New York — with any considerable tribe out of New England — impracticable. Civilization, too, was pushing its prow up the Hudson, even more adventurously than upon the Connecticut and Charles, the Merrimack, the Piscataqua, and the Kennebec. They were encompassed about as by the embrace of a serpent, contracting its folds closer at every turn and struggle of its victim, and leisurely choosing its own time to crush him to death. Such were the condition and prospects of the Indians of New England at the beginning of Philip's war.

It is doubtful if that celebrated chief intended to provoke such a war, or if he ever anticipated for it a successful issue. But there is no doubt that after it had begun he threw his whole great powers into the conduct of it, — that he formed and moved a confederacy of almost all the aborigines of New England to its support, — that he exhausted every resource of bravery and Indian soldiership and statesmanship, — that he died at last for a land and for a throne which he could not save. Our fathers called him King Philip, in jest. I would not wrong his warrior-shade by comparing him with any five

in six of the kings of Europe, of his day or ours; and I sincerely wish that the elaborate jests and puns put forth by Hubbard and Mather upon occasion of his death, were erased from the records of New England.

In the course of this decisive struggle with the Colonists, the Indians, some time when all human help seemed to fail, turned in anger and despair to the gods of their gloomy and peculiar worship. Beneath the shades of the forest, which had stood from the creation, — at the entrance of caverns at midnight, — in tempest and thunder, — they shed the human blood and uttered the incantations which their superstitions prescribed, and called up the spirits of evil to blast these daring strangers who neither feared, nor honored, nor recognized the ancient divinities of the Indians. The spirits they had raised abandoned them. Their offering was not accepted, — their fires of sacrifice were put out. The long, dreary sigh of the night-wind in the tops of the pines alone answered their misguided and erring prayers. Then they felt that their doom was sealed, and the cry — piercing, bitter, and final — of a perishing nation arose to heaven!

Let me solicit your attention to another view of this subject. I have urged thus far, that our future Waverley Novels and poetry would contain a good deal of positive information which our histories do not contain, — gleanings, if you please, of what the licensed reapers have, intentionally or unintentionally, let fall from their hands; and that this information would be authentic and valuable. I now add, that they would have another use. They would make the information which our histories do contain more accessible and more engaging to the great body of readers, even if they made no addition to its absolute quantity. They would melt down, as it were, and stamp the heavy bullion into a convenient, universal circulating medium. They would impress the facts, the lessons of history, more deeply, and incorporate them more intimately into the general mind and heart, and current and common knowledge of the people.

All history, all records of the past, of the acts, opinions, and characters of those who have preceded us in the great procession of the generations, is full of instruction, and written for instruction. Especially may we say so of our own

history. But of all which it teaches, its moral lessons are, perhaps, the most valuable. It holds up to our emulation and love great models of patriotism and virtue. It introduces us into the presence of venerated ancestors, "of whom the world was not worthy." It teaches us to appreciate and cherish this good land, these free forms of government, this pure worship of the conscience, these schools of popular learning, by reminding us through how much tribulation, not our own, but others, these best gifts of God to man have been secured to us. It corrects the cold selfishness which would regard ourselves, our day, and our generation, as a separate and insulated portion of man and time; and, awakening our sympathies for those who have gone before, it makes us mindful, also, of those who are to follow, and thus binds us to our fathers and to our posterity by a lengthening and golden cord. It helps us to realize the serene and august presence and paramount claims of our country, and swells the deep and full flood of American feeling.

Such are some of the moral influences and uses of our history. Now, I say that he who writes the romance of history, as Scott has written it, shall teach these lessons, and exert and diffuse these influences, even better than he who confines himself to what I may call the reality of history. In the first place, he could make a more select and discriminating choice of incidents and characters and periods of time. There is a story told of an epicure who never would eat more than one mouthful out of the sunny side of the peach. That is about the proportion, about the quality, of all which Scott culls out of history.

Much of what history relates produces no impression upon the moral sentiments or the imagination. Much of it rather chills, shames, and disgusts us, than otherwise. Throughout it is constantly exciting a succession of discordant and contradictory emotions, — alternate pride and mortification, alternate love and anger, alternate commendation and blame. The persecutions of the Quakers, the controversies with Roger Williams and Mrs. Hutchinson, the perpetual synods and ecclesiastical surveillance of the old times; a great deal of this is too tedious to be read, or it offends and alienates you. It is truth, fact; but it is just what you do not want to know,

and are none the wiser for knowing. Now, he who writes the romance of history takes his choice of all its ample but incongruous material. "Whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue and if there be any praise,"—these things alone he thinks of and impresses. In this sense he accommodates the show of things to the desires and the needs of the immortal, moral nature. To vary a figure of Milton's, instead of crowding his net, as Time crowds his, with all things precious and vile,—bright gems, sea-weed mixed with sand, bones of fishes,—he only dives for and brings up coral and pearl, and shells golden-valved and rainbow-colored, murmuring to the ear like an Æolian harp. He remembers that it is an heroic age to whose contemplation he would turn us back; and as no man is a hero to his servant, so no age is heroic of which the whole truth is recorded. He records the useful truth therefore, only,—gathering only the wheat, wine, and oil, into his garner,—leaving all the rest to putrefy or be burned.

But farther. Such a writer as I am supposing is not only privileged to be more select and felicitous in his topics, his incidents, characters, and eras, but he treats these topics differently, and in a way to give ten thousand-fold more interest and impressiveness to all the moral lessons they are adapted to teach. He tells the truth, to be sure; but he does not tell the whole truth, for that would be sometimes misplaced and discordant. He tells something more than the truth, too, remembering that though man is not of imagination *all compact*, he is yet, in part, a creature of imagination, and can be reached and perfected by a law of his nature in part only through the imagination. He makes the imagination, therefore, he makes art, wit, eloquence, philosophy, and poetry, invention, a skilful plot, a spirited dialogue, a happy play, balance and rivalry of characters,—he makes all these contribute to embellish and recommend that essential, historical truth which is as the nucleus of the whole fair orb. Thus he gives a vividness, individuality, nearness, magnitude, to the remotest past, which hardly belongs to the engrossing and visible present, and which history gives to nothing. The Richard of

Scott in his general character and principal fortunes, in his chronology and geography, so to speak, is the Richard of history. But the reason you know him better is this: the particular situations in which you see him in Ivanhoe and the Crusaders, the conversations he holds, his obstreperous contest of drink and music with the holy clerk in the cell, that more glorious contest with the traitors in the wood, with the Normans in the castle, the scene in his tent in which he was so nearly assassinated, and that in Saladin's tent where he challenged him in all love and honor to do mortal battle for the possession of Jerusalem, — these are all supplied by the imagination of the writer to the imagination of the reader. Probably they all happened just as they are set forth; but you can't exactly prove it out of any book of history. They are all probable; they are exactly consistent with what we do know and can prove. But the record is lost by time and accident. They lie beyond the province of reason; but faith and imagination stretch beyond that province, and complete the shadowy and imperfect revelation. History shows you prospects by starlight, or at best by the waning moon. Romantic fiction, as Scott writes it, does not create a new heaven and a new earth; but it just pours the brightness of noonday over the earth and sky. He shows you the same prospect which history does. But he shows it from a different point of view, and through a brighter, more lustrous medium, and by a more powerful optical instrument. Some things which history would show, you do not see. But you see the best of everything, — all that is grand and beautiful of nature, all that is brilliant in achievement, all that is magnanimous in virtue, all that is sublime in self-sacrifice; and you see a great deal more of which history shows you nothing. To say that Scott's view of an age, a character, or a historical event, is not a true view, is not much more sensible than to say that nothing exists but what you can see in the dark, — that he who brings a light into your room in the night, suddenly creates everything which you are enabled to discover by the light of it.

I do not know that I can better illustrate this difference between the romance and the reality of history, and in some respects the superiority of the former for teaching and im-

pressing mere historical truth, than by going back to the ten years which immediately preceded the Battle of Lexington. If idle wishes were not sinful as well as idle, that of all time past is the period in which we might all wish to have lived. Yet how meagre and unsatisfactory is the mere written history of that day. Indeed, there is hardly anything there for history. The tea was thrown overboard, to be sure, and The Gaspar burned; town meetings were held, and committees of correspondence chosen, and touching appeals, of pathos and argument and eloquence unequalled, addressed to the king and people of England in behalf of their oppressed subjects and brethren of America. And when history has told you this she is silent. You must go to Scott, or evoke the still mightier Shakspeare or Homer, if you would truly know what that day was, — what the people of that day were, — if you would share in that strong and wide excitement, see that feeling, not loud but deep, of anger and grief and conscious worth, and the sense of violated rights, in that mingled and luxurious emotion of hope and apprehension with which the heart of the whole country throbbed and labored as the heart of a man. And how would Scott reveal to you the spirit of that age? He would place you in the middle of a group of citizens of Boston, going home from the Old South, perhaps, or Faneuil Hall, where James Otis, or Josiah Quincy, or Samuel Adams, had been speaking, and let you listen to their conversation. He would take you to their meeting on Sunday when the congregation stood up in prayer, and the venerable pastor adverted to the crisis, and asked for strength and guidance from above to meet it. He would remark to you that varied expression which ran instantaneously over the general countenance of the assembly, and show you in that varied expression — the varied fortunes of America — the short sorrow, the long joy, the strife, the triumph, the agony, and the glory. In that congregation you might see in one seat the worn frame of a mother whose husband followed the banners of Wolfe, and fell with him on the Plains of Abraham, shuddering with apprehension lest such a life and such a death await her only son, yet striving as became a matron of New England, for grace to make even that sacrifice. You might see old men who dragged Sir Wil-

liam Pepperell's cannon along the beach at Louisburg, now only regretting that they had not half so much youthful vigor left to fight their king as they then used up in fighting his enemies. You read in yonder eye of fire the energy and ardor of a statesman like John Adams, seeing clear through that day's business, and beholding the bright spot beyond the gloom. You see the blood mount into that cheek of manly beauty, betraying the youthful Warren's dream of fame! But as the pastor proceeded, and his feelings rose, and his voice swelled to its full expression, as he touched on the rights of the Colonies and the injustice of the king, — as his kindling imagination presented to him the scenes of coming and doubtful conflict, and he prayed that He to whom the shields of the earth belong, would gird on his sword and go forth with our hosts on the day of battle, and would open their eyes to behold in every valley and in every plain, as the prophet beheld by the same illumination, chariots of fire and horses of fire, — you would see then, all those minor shades of individual peculiarity pass away from the face of the assembly, and one universal and sublime expression of religion and patriotism diffuse itself over all countenances alike, as sunshine upon a late disturbed sea.

Thus somewhat would Scott contrive to give you a perception of that indefinable yet real and operative existence, — the spirit of a strongly agitated age, — of the temper and determination of a people in a state of high excitement and fermentation, not yet broken out into overt conduct, — of that interval so full of strange interest, between the acting of a dreadful thing and the first motion. He does it simply and shortly by the power of philosophical imagination working upon known facts, actual experience, and the uniform laws of the human mind.

In leaving this subject, I cannot help suggesting, at the hazard of being thought whimsical, that a literature of such writings as these, embodying the romance of the whole revolutionary and ante-revolutionary history of the United States, might do *something* to perpetuate the Union itself. The influence of a rich literature of passion and fancy upon society must not be denied merely because you cannot measure it by the yard or detect it by the barometer. Poems and romances

which shall be read in every parlor, by every fireside, in every school-house, behind every counter, in every printing-office, in every lawyer's office, at every weekly evening club, in all the States of this Confederacy, must do something, along with more palpable if not more powerful agents, toward moulding and fixing that final, grand, complex result, — the national character. A keen, well-instructed judge of such things said, if he might write the ballads of a people, he cared little who made its laws. Let me say, if a hundred men of genius would extract such a body of romantic literature from our early history as Scott has extracted from the history of England and Scotland, and as Homer extracted from that of Greece, it perhaps would not be so alarming if demagogues should preach, or governors practise, or executives tolerate nullification. Such a literature would be a common property of all the States, — a treasure of common ancestral recollections, — more noble and richer than our thousand million acres of public land; and, unlike that land, it would be indivisible. It would be as the opening of a great fountain for the healing of the nations. It would turn back our thoughts from these recent and overrated diversities of interest, — these controversies about negro-cloth, coarse-wooled sheep and cotton bagging, — to the day when our fathers walked hand in hand together through the valley of the Shadow of Death in the War of Independence. Reminded of our fathers, we should remember that we are brethren. The exclusiveness of State pride, the narrow selfishness of a mere local policy, and the small jealousies of vulgar minds, would be merged in an expanded, comprehensive, constitutional sentiment of old, family, fraternal regard. It would reassemble, as it were, the people of America in one vast congregation. It would rehearse in their hearing all things which God had done for them in the old time; it would proclaim the law once more; and then it would bid them join in that grandest and most affecting solemnity, — a national anthem of thanksgiving for the deliverance, of honor for the dead, of proud prediction for the future!

It were good for us to remember that nothing which tends, however distantly, however imperceptibly, to hold these States together, is beneath the notice of a considerate patriot-

ism. It were good to remember that some of the institutions and devices by which former confederacies have been preserved, our circumstances wholly forbid us to employ. The tribes of Israel and Judah came up three times a year to the holy and beautiful city and united in prayer and praise and sacrifice, in listening to that thrilling poetry, in swelling that matchless song, which celebrated the triumphs of their fathers by the Red Sea, at the fords of Jordan, and on the high places of the field of Barak's victory. But we have no feast of the Passover, or of the Tabernacles, or of the Commemoration. The States of Greece erected temples of the gods by a common contribution, and worshipped in them. They consulted the same oracle; they celebrated the same national festival; mingled their deliberations in the same Amphictyonic and subordinate assemblies, and sat together upon the same benches to hear their glorious history read aloud, in the prose of Herodotus, the poetry of Homer and of Pindar. We have built no national temples but the Capitol; we consult no common oracle but the Constitution. We can meet together to celebrate no national festival. But the thousand tongues of the press, — clearer far than the silver trumpet of the jubilee, — louder than the voice of the herald at the games, — may speak and do speak to the whole people, without calling them from their homes or interrupting them in their employments. Happy if they should speak, and the people should hear, those things which pertain at least to their temporal and national salvation!

It is painful to reflect that for whomsoever else is reserved this great achievement of beginning to create our national romantic literature, it is not for Sir Walter Scott. He died at his residence on the 22d of September, and sleeps beneath the "pillared arches" of Dryburgh Abbey. In the introduction to that delightful poem, the "Lady of the Lake," he represents himself as taking down the long silent harp of the North, from "the witch elm that shades St. Fillan's Spring," and reverently attempting to wake it again to an echo of its earlier and nobler strains. That harp whose sway so many throbbing hearts have owned, is hung again on that tree for the night-wind to breathe on, — "mouldering and muffled with envious ivy." Even now we may

fancy its last tones falling on the ears of the Minstrel's contemporaries and survivors.

> "Receding now — its dying numbers ring
> Fainter and fainter down the rugged dell;
> And now the mountain breezes scarcely bring
> A wandering witch-note of the distant spell;
> And now — 'tis silent all — Enchantress, fare thee well!"

THE COLONIAL AGE OF NEW ENGLAND:

AN ADDRESS DELIVERED AT THE CENTENNIAL CELEBRATION OF THE SETTLEMENT OF THE TOWN OF IPSWICH, MASS., AUGUST 16, 1834.

It is a fact which a native of this old, fertile, and beautiful town may learn with pleasure, but without surprise, that it was always the most fertile or among the most fertile and most beautiful portions of the coast of New England. John Smith, who in 1614 explored that coast from Penobscot to Cape Cod, admires and praises "the many rising hills of Agawam," whose tops and descents are grown over with numerous corn-fields and delightful groves, the island to the east, with its "fair high woods of mulberry trees," and the luxuriant growth of oaks, pines, and walnuts, "which make the place," he says, "an excellent habitation;" while the Pilgrim Fathers in December 1620, when deliberating on the choice of a spot for their settlement, some of them "urged greatly to Anguan or Angoan, a place twenty leagues off to the northward, which they heard to be an excellent harbor for ships, better ground, and better fishing." As early as January, 1632, the first governor of Massachusetts, John Winthrop, declared Agawam to be "the best place for tillage and cattle *in the land;*" others described its great meadows, marshes, and plain ploughing grounds; and that the government of the infant colony, Massachusetts, at the time resolved that it should be occupied forthwith by a sort of garrison, in advance and in anticipation of its more formal and numerous settlement, for the express purpose of keeping so choice a spot out of the hands of the French. In March, 1633, accordingly, there was sent hither a company of thirteen men to acquire and to preserve rather for the future than the present uses of the Colony, as much as they might of

that fair variety of hill, plain, wood, meadow, marsh, and seashore, whose fame had spread so widely. The leader of the little band was John Winthrop, the son of the Governor. They arrived in that month — the dreariest of the New England year — on the banks of the river which washes in his sweet and cheerful course the foot of the hill on which we are assembled. They proceeded to purchase of Masconomo, the Sagamore of Agawam, by a deed to him, Winthrop, a portion of the territory which composes the present corporation of Ipswich; and there remained without, I imagine, any considerable addition to their number, without any regularly organized church, or stated preaching, or municipal character, until May, 1634. At that time the Rev. Thomas Parker, the pupil of the learned Archbishop Usher of Dublin, and about one hundred more, men, women, and children, came over from "the Bay" and took up their abode on the spot thus made ready for them. In August, 1634, the first church was organized; and on this day two hundred years ago the town was incorporated. With that deep filial love of England and the English, which neither persecution, nor exile, nor distance, nor the choice of another and dearer home, nor the contemplation of the rapidly revealing and proud destinies of the New World, ever entirely plucked from the hearts of all the Colonists down to the war of Independence, they took the name of Ipswich from the Ipswich of the east coast of England, the capital of the county of Suffolk, and the birthplace of Cardinal Wolsey.

And thus and by these was begun the civil and ecclesiastical establishment and history of Ipswich. You have done well in this way to commemorate an event of so much interest to you. It is well thus filially, thus piously, to wipe away the dust, if you may, which two hundred years have gathered upon the tombs of the fathers. It is well that you have gathered yourselves together on this height; that as you stand here and look abroad upon as various and inspiring a view as the sun shines upon; as you see fields of grain bending before the light summer wind, — one harvest just now ready for the sickle, and another and a richer preparing; as you see your own flocks upon the tops and descents of the many rising hills; mowing-lands shaven by the scythe; the slow river

winding between still meadows, ministering in his way to the processes of nature and of art, — losing himself at last under your eye in the sea, as life, busy or quiet, glides into immortality; as you hear peace and plenty proclaiming with a thousand voices the reign of freedom, law, order, morality, and religion; as you look upon these charities of God, these schools of useful learning and graceful accomplishment, these great workshops of your manufacturers, in which are witnessed — performed every day — achievements of art and science to which the whole genius of the ancient world presents nothing equal; as you dwell on all this various, touching, inspiring picture in miniature of a busy, prosperous, free, happy, thrice and four times happy, and blessed people, — it is well that standing here you should look backwards as well as around you and forward, — that you should call to mind, to whom under God you owe all these things; whose weakness has grown into this strength; whose sorrows have brought this exceeding great joy; whose tears and blood, as they scattered the seed of that cold, late, ungenial, and uncertain spring, have fertilized this natural and moral harvest which is rolled out at your feet as one unbounded flood.

The more particular history of Ipswich from its settlement to this day, and of the towns of Hamilton and Essex — shoots successively from the parent stock — has been written so minutely and with such general accuracy, by a learned clergyman of this county, that I may be spared the repetition of details with which he has made you familiar. This occasion, too, I think, prescribes topics somewhat more general. That long line of learned ministers, upright magistrates, and valiant men of whom we are justly proud — our municipal fathers — were something more and other than the mere founders of Ipswich; and we must remember their entire character and all their relations to their own times and to ours, or we cannot do them adequate honor. It is a boast of our local annals that they do not flow in a separate and solitary stream, but blend themselves with that broader and deeper current of events, the universal ante-revolutionary history of North America. It is the foundation of an empire, and not merely the purchase and plantation of Agawam, which we commemorate, — whether we will or not; and I do not fear that we shall en-

large our contemplations too far, or elevate them too high, for the service to which we have devoted this day.

The history of the Colonies which were planted one after another along our coast in the seventeenth century, and which grew up in the fulness of time into thirteen and at last into twenty-four States, from their respective beginnings to the war of Independence, is full of interest and instruction, for whatever purpose or in whatever way you choose to read it. But there is one point of view in which, if you will look at the events which furnished the matter of that colonial history, I think you will agree with me that they assume a character of peculiar interest, and entitle themselves to distinct and profound consideration. I regard those events altogether as forming a vast and various series of influences, — a long, austere, effective course of discipline and instruction, — by which the settlers and their children were slowly and painfully trained to achieve their independence, to form their constitutions of State governments and of federal government, and to act usefully and greatly their part as a separate political community on the high places of the world.

The Colonial period, as I regard it, was the charmed, eventful infancy and youth of our national life. The revolutionary and constitutional age, from 1775 to 1789, was the beginning of its manhood. The Declaration of Independence, the succeeding conduct of the war of Independence, the establishment of our local and general governments, and the splendid national career since run, — these are only effects, fruits, outward manifestations! The seed was sown, the salient living spring of great action sunk deep in that long, remote, less brilliant, less regarded season, — the heroic age of America that preceded. The Revolution was the meeting of the rivers at the mountain. You may look there, to see them rend it asunder, tear it down from its summit to its base, and pass off to the sea.

But the Colonial period is the country above, where the rivers were created. You must explore that region if you would find the secret fountains where they began their course, the contributory streams by which they grew, the high lands covered with woods, which, attracting the vapors as they floated about them, poured down rain and melted snow to

swell their currents, and helped onward the momentum by which they broke through the walls of nature and shook the earth itself to its centre! One of our most accomplished scholars and distinguished public men speaks somewhere of the "Miracle of the Revolution." I would say rather that the *true* miracle was the character of the people who *made* the Revolution; and I have thought that an attempt to unfold some of the great traits of that character, and to point out the manner in which the events of the preceding Colonial Age contributed to form and impress those traits, imperfect as it must be, would be entirely applicable to this occasion.

The leading feature, then, in the character of the American people in the age of the Revolution was what Burke called in Parliament their "fierce spirit of liberty." "It is stronger in them," said he, "than in any other people on the earth." "I am convinced," said our youthful and glorious Warren, — in a letter to Quincy, little more than six months before he fell on the heights of Charlestown, — "I am convinced that the true spirit of liberty was never so universally diffused through all ranks and orders of men on the face of the earth, as it now is through all North America. It is the united voice of America to preserve their freedom or lose their lives in defence of it." Whoever overlooks, whoever underestimates this trait in the character of that generation of our fathers, — whoever has not carefully followed it upwards to its remote and deep springs, may wonder at, but never can comprehend, the "Miracle of the Revolution." Whence, then, did they derive it? Let us return to the history of the Colonists before they came, and after they came, for the answer; and for distinctness and brevity let us confine ourselves to the Northern Colonists, our immediate ancestors.

The people of New England, at the beginning of the Revolutionary War, to describe them in a word, were the Puritans of Old England as they existed in that country in the first half of the seventeenth century; but changed, — somewhat improved, let me say, — by the various influences which acted upon them here for a hundred and fifty years after they came over.

The original stock was the Puritan character of the age of

Elizabeth, of James I., and of Charles I. It was transplanted to another soil; another sun shone on it; other winds fanned and shook it; the seasons of another heaven for a century and a half circled round it; and there it stood at length, the joint product of the old and the new, deep-rooted, healthful, its trunk massive, compact, and of rough and gnarled exterior, but bearing to the sky the glory of the wood.

Turn first now, for a moment, to the Old English Puritans, the fathers of our fathers, of whom came, of whom were, planters of Ipswich, of Massachusetts, of New England, — of whom came, of whom were, our own Ward, Parker, and Saltonstall, and Wise, Norton, and Rogers, and Appleton, and Cobbet, and Winthrop, — and see whether they were likely to be the founders of a race of freemen or slaves. Remember, then, the true, noblest, the least questioned, least questionable, praise of these men is this: that for a hundred years they were the sole depositaries of the sacred fire of liberty in England, after it had gone out in every other bosom, — that they saved at its last gasp the English constitution, which the Tudors and the first two Stuarts were rapidly changing into just such a gloomy despotism as they saw in France and Spain, and wrought into it every particle of freedom which it now possesses, — that when they first took their seats in the House of Commons, in the early part of the reign of Elizabeth, they found it the cringing and ready tool of the throne, and that they reanimated it, remodelled it, reasserted its privileges, restored it to its constitutional rank, drew back to it the old power of making laws, redressing wrongs, and imposing taxes, and thus again rebuilt and opened what an Englishman called "the chosen temple of liberty," an English House of Commons, — that they abridged the tremendous power of the crown and defined it, — and when at last Charles Stuart resorted to arms to restore the despotism they had partially overthrown, that they met him on a hundred fields of battle, and buried, after a sharp and long struggle, crown and mitre and the headless trunk of the king himself beneath the foundations of a civil and religious commonwealth. This praise all the historians of England — Whig and Tory, Protestant and Catholic, Hume, Hallam, Lingard, and all — award to

the Puritans. By what causes this spirit of liberty had been breathed into the masculine, enthusiastic, austere, resolute character of this extraordinary body of men, in such intensity as to mark them off from all the rest of the people of England, I cannot here and now particularly consider. It is a thrilling and awful history of the Puritans in England, from their first emerging above the general level of Protestants, in the time of Henry VIII. and Edward VI., until they were driven by hundreds and thousands to these shores; but I must pass it over. It was just when the nobler and grander traits — the enthusiasm and piety and hardihood and energy — of Puritanism had attained the highest point of exaltation to which, in England, it ever mounted up, and the love of liberty had grown to be the great master-passion that fired and guided all the rest, — it was just then that our portion of its disciples, filled with the undiluted spirit, glowing with the intensest fervors of Protestantism and republicanism together, came hither, and in that elevated and holy and resolved frame, began to build the civil and religious structures which you see around you.

Trace, now, their story a little farther onward through the Colonial period to the War of Independence, to admire with me the providential arrangement of circumstances by which that spirit of liberty, which brought them hither, was strengthened and reinforced, until at length, instructed by wisdom, tempered by virtue, and influenced by injuries, by anger and grief and conscious worth and the sense of violated right, it burst forth here and wrought the wonders of the Revolution. I have thought that if one had the power to place a youthful and forming people, like the northern colonists, in whom the love of freedom was already vehement and healthful, in a situation the most propitious for the growth and perfection of that sacred sentiment, he could hardly select a fairer field for so interesting an experiment than the actual condition of our fathers for the hundred and fifty years after their arrival, to the War of the Revolution.

They had freedom enough to teach them its value, and to refresh and elevate their spirits, wearied, not despondent, from the contentions and trials of England. They were just so far short of perfect freedom, that, instead of reposing for a mo-

ment in the mere fruition of what they had, they were kept emulous and eager for more, looking all the while up and aspiring to rise to a loftier height, to breathe a purer air, and bask in a brighter beam. Compared with the condition of England down to 1688, — compared with that of the larger part of the continent of Europe down to our Revolution, — theirs was a privileged and liberal condition. The necessaries of freedom, if I may say so, — its plainer food and homelier garments and humbler habitations, — were theirs. Its luxuries and refinements, its festivals, its lettered and social glory, its loftier port and prouder look and richer graces, were the growth of a later day; these came in with independence. Here was liberty enough to make them love it for itself, and to fill them with those lofty and kindred sentiments which are at once its fruit and its nutriment and safeguard in the soul of man. But their liberty was still incomplete, and it was constantly in danger from England; and these two circumstances had a powerful effect in increasing that love and confirming those sentiments. It was a condition precisely adapted to keep liberty, as a subject of thought and feeling and desire, every moment in mind. Every moment they were comparing what they had possessed with what they wanted and had a right to; they calculated by the rule of three, if a fractional part of freedom came to so much, what would express the power and value of the whole number! They were restive and impatient and ill at ease; a galling wakefulness possessed their faculties like a spell. Had they been wholly slaves, they had lain still and slept. Had they been wholly free, that eager hope, that fond desire, that longing after a great, distant, yet practicable good, would have given way to the placidity and luxury and carelessness of complete enjoyment; and that energy and wholesome agitation of mind would have gone down like an ebb-tide. As it was, the whole vast body of waters all over its surface, down to its sunless, utmost depths, was heaved and shaken and purified by a spirit that moved above it and through it, and gave it no rest, though the moon waned and the winds were in their caves; they were like the disciples of the old and bitter philosophy of Paganism, who had been initiated into one stage of the greater mysteries, and who had come to the door, closed, and written over

with strange characters, which led up to another. They had tasted of truth, and they burned for a fuller draught; a partial revelation of that which shall be hereafter, had dawned; and their hearts throbbed eager, yet not without apprehension, to look upon the glories of the perfect day. Some of the mystery of God, of Nature, of Man, of the Universe, had been unfolded; might they, by prayer, by abstinence, by virtue, by retirement, by contemplation, entitle themselves to read another page in the clasped and awful volume?

Sparing and inadequate as their supply of liberty was, it was all the while in danger from the Crown and Parliament of England, and the whole ante-revolutionary period was one unintermitted struggle to preserve it, and to wrest it away. You sometimes hear the Stamp Act spoken of as the first invasion of the rights of the colonists by the mother-country. In truth, it was about the last; the most flagrant, perhaps, the most dreadful and startling to an Englishman's idea of liberty, but not the first, — no, by a hundred and fifty years not the first. From the day that the Pilgrims on board The Mayflower at Plymouth, before they landed, drew up that simple, but pregnant and comprehensive, form of democracy, and subscribed their names, and came out a colony of republicans, to the battle of Lexington, there were not ten years together, — I hardly exempt the Protectorate of Cromwell, — in which some right — some great and sacred right, as the colonists regarded it — was not assailed or menaced by the government of England, in one form or another. From the first, the mother-country complained that we had brought from England, or had found here, *too much liberty*, — liberty inconsistent with prerogatives of the Crown, inconsistent with supremacy of Parliament, inconsistent with the immemorial relations of all colonies to the country they sprang from, — and she set herself to abridge it. We answered with great submission that we did not honestly think that we had brought or had found much more than half liberty enough; and we braced ourselves to keep what we had, and obtain more when we could; — and so, with one kind of weapon or another, on one field or another, on one class of questions or another, a struggle was kept up from the landing at Plymouth to the surrender at Yorktown. It was all one single struggle from

beginning to end; the parties, the objects, the principles, are the same; — one sharp, long, glorious, triumphant struggle for liberty. The topics, the heads, of dispute, various from reign to reign; but though the subjects were various, the question was *one*, — shall the colonists be free, or shall they be slaves?

And that question was pronounced by everybody, understood by everybody, debated by everybody, — in the colonial assemblies; by the clergy on the days of thanksgiving, on fast-days, and quarterly fast-days; and by the agents of the colonies in England; and at last, and more and more, through the press. I say nothing here of the effect of such a controversy so long continued, in sharpening the faculties of the colonists, in making them acute, prompt, ingenious, full of resource, familiar with the grounds of their liberties, their history, revolutions, extent, nature, and the best methods of defending them argumentatively. These were important effects; but I rather choose to ask you to consider how the *love* of liberty would be inflamed; how ardent, jealous, irresistible it would be made; with what new and what exaggerated value even, it would learn to invest its object, by being thus obliged to struggle so unceasingly to preserve it; and by coming so many times so near to lose it; and by being thus obliged to bear it away like another Palladium, at the hazard of blindness, from the flames of its temple which would have consumed it, — across seas gaping wide to swallow it up, — through serried ranks of armed men who had marked it for a prey.

There was one time during this long contest when it might have seemed to any race of men less resolved than our fathers, that liberty had at last returned from earth to the heavens from which she descended. A few years before 1688 — the year of the glorious revolution in England — the British king succeeded, after a struggle of more than half a century, in wresting from Massachusetts her first charter. From that time, or rather from December, 1685, to April, 1689, the government of all New England was an undisguised and intolerable despotism. A governor, Sir Edmund Andros, — not chosen by the people as every former governor had been, but appointed by James II., — worthy to serve such a master, — and a few members,

less than the majority, of the council, also appointed by the king, and very fit to advise such a governor, grasped and held the whole civil power. And they exercised it in the very spirit of the worst of the Stuarts. The old, known body of colonial laws and customs which had been adopted by the people, was silently and totally abolished. New laws were made; taxes assessed; an administration all new and all vexatious was introduced, not by the people in general court, but by the governor and a small, low faction of his council, in whose election they had no vote; over whose proceedings they had no control; to whom their rights and interests and lives were all as nothing compared with the lightest wish of the Papist and tyrant James whom they served. A majority of the council, although appointed by the king, wore yet true hearts of New England in their bosoms, and resisted with all their might the tyranny which the government was riveting upon her. One of these, Major Samuel Appleton, was an inhabitant of Ipswich, a son of one of the earliest settlers of the town, the ancestor of a long line of learned, energetic, and most respectable descendants. He had the high honor to be arrested in October, 1689, by Andros and his faction in the council, as being a factious member of the board and disaffected to the government, and was obliged to give bonds in the sum of £1000 to be of good political behavior. But the efforts of this gentleman, and of such as he in the council, could avail nothing; and the arbitrary tyranny of the creatures of the Stuarts became the only government of Massachusetts.

In this the darkest day that New England ever saw, it is grateful to pause and commemorate an act of this town of Ipswich which deserves, I think, an honorable place in the universal history of liberty. Sir Edmund Andros and his faction had, without the intention of the colonial legislature, or any representatives of the people, made a decree imposing a State tax on the people, against that fundamental principle of liberty, that the people alone can tax themselves. They had assessed in several towns quotas of it, and had commanded them to choose each a commissioner, who, with the boards of the selectmen, should assess the quota of the town on its inhabitants and estates respectively. A meeting of the

inhabitants of Ipswich was warned to be holden on the 23d August, 1687, to choose a commissioner to aid the selectmen in assessing the tax. The evening before the meeting the Rev. John Wise, the minister of the parish now Essex, a learned, able, resolute, and honest man, — worthy to preach to the children of Puritans, — Robert Kinsman, William Goodhue, Jr., and several other principal inhabitants of Ipswich, held a preparatory caucus at the house of John Appleton, brother of Major Samuel Appleton, which stood, or stands, on the road to Topsfield, and there "discoursed, and concluded that it was not the town's duty *any way* to assist that *ill method* of raising money without a general assembly." The next day they attended the town-meeting, and Mr. Wise made a speech, enforcing this opinion of his friends, and said, "We have a good God, and a good king, and should do well to stand on our privileges." And by their privileges they concluded to stand. I cannot read the simple, manly, and noble vote of Ipswich on that day without a thrill of pride, — that then, when the hearts of the pious and brave children in Massachusetts seemed almost sunk within them, — our charter gone, James Stuart the Second on the throne, (I suspect it was irony or policy of Mr. Wise to call him a good king) — just when the long-cherished, long-dreaded design of the English Crown to reduce the colonies into immediate dependence on itself, and to give them, unconcealed, slavery for substantial freedom, seemed about to be consummated, — that we here and then, with full knowledge of the power and temper of Andros and his council, dared to assert and to spread out upon our humble record the great principle of English liberty and of the American Revolution. The record declares "that considering the said act" (referring to the order of the governor and council imposing the tax) "doth infringe *their liberty as free-born English subjects* of His Majesty, and by interfering with the statute laws of the land by which it was enacted that no taxes should be levied upon the subjects *without the consent of an assembly chosen by the free men for assessing the same*, — they do, therefore, vote that they are not willing to choose a commissioner for such an end without such a privilege; — and they, moreover, consent not that the selectmen do proceed to levy any such

rate, until it be appointed by a general assembly, concurring with the Governor and Council."

For the share they had taken in the proceedings of that memorable day, Mr. Wise and five others, probably those who met with him, and Mr. Appleton himself, were arrested, by order of the Governor, as for a contempt and misdemeanor, and carried beyond the limits of the county, imprisoned in jail at Boston, denied the writ of habeas corpus, tried by a packed jury — principally strangers and foreigners, I rejoice to read — and a subservient court, and of course found guilty. They were all fined more or less heavily, from £15 to £50, compelled to enter into bonds of from £500 to £1000 each to keep the peace, and Mr. Wise was suspended from the ministerial function, and the others disqualified to bear office.

The whole expense of time and money to which they were subjected was estimated to exceed £400, — a sum equivalent to perhaps $5000 of our money, — enough to build the Ipswich part of Warner's Bridge more than three times over; which the town shortly after nobly and justly, yet gratuitously, refunded to the sufferers.

These men, says Pitkin, who is not remarkable for enthusiasm, may justly claim a distinguished rank among the patriots of America. You, their townsmen — their children — may well be proud of them; prouder still, but more grateful than proud, that a full town-meeting of the freemen of Ipswich adopted unanimously that declaration of right, and refused to collect or pay the tax which would have made them slaves. The principle of that vote was precisely the same on which Hampden resisted an imposition of Charles I., and on which Samuel Adams and Hancock and Warren resisted the Stamp Act,— the principle that if any power but the people can tax the people, there is an end of liberty.

The later and more showy spectacles and brighter glories and visible results of the age of the Revolution, have elsewhere cast into the shade and almost covered with oblivion the actors on that interesting day, and the act itself, — its hazards, its intrepidity, its merits, its singularity and consequences. But you will remember them, and teach them to your children. The graves of those plain, venerable, and sturdy men of the old, old time, who thus set their lives on the hazard of a die

for the perishing liberties of Massachusetts; the site of the house where they assembled — they, the fathers of the town — the day before the meeting, to consider what advice they should give to their children in that great crisis, so full of responsibility and danger; the spot on which that building stood where the meeting was holden and the declaration recorded,—these are among you yet; your honor, your treasure, the memorials and incentives of virtue and patriotism and courage, which feared God and knew no other fear! Go sometimes to those graves, and give an hour of the summer evening to the brave and pious dead. Go there, and thank God for pouring out upon them the spirit of liberty, and humbly ask Him to transmit it, as it breathed in them, their children, and their children's children, to the thousandth generation!

I have said part of what I intended of one trait in the character of our fathers of the revolutionary age,—their spirit of liberty. But something more than the love of liberty is needful to fit a people for the enjoyment of it. Other men, other nations, have loved liberty as well as our fathers. The sentiment is innate, and it is indestructible, and immortal. Yet of the wide-spread families of the earth, in the long procession of the generations, that stretches backward to the birth of the world, how few have been free at all; how few have been long free; how imperfect was their liberty while they possessed it; how speedily it flitted away; how hard to woo it to return! In all Asia and Africa—continents whose population is more than four sevenths of the human race on earth, whose history begins ages before a ray of the original civilization of the East had reached to Europe — there was never a free nation. And how has it been in Europe, that proud seat of power, art, civilization, enterprise, and mind? Alas for the destiny of social man! Here and there in ancient and in later times, in Greece, in Rome, in Venice, in France, men have called on the Goddess of Liberty in a passionate and ignorant idolatry; they have embodied her angelical brightness and unclouded serenity in marble; they have performed dazzling actions, they have committed great crimes in her name; they have built for her the altars where she best loves to be worshipped,—republican forms of government; they have found energy, genius, the love of glory, the mad dream of

power and pride in her inspiration. But they were not wise enough, they were not virtuous enough for diffused, steady, lasting freedom. Their heads were not strong enough to bear a draught so stimulatiug. They perished of raging fever, kindled by drinking of the very waters of social life! These stars one after another burned out, and fell from their throne on high!

England guarded by the sea; Holland behind her dikes; a dozen Swiss Cantons breathing the difficult air of the iced mountain tops, — these, in spite of revolutions, all were free governments. And in the whole of the Old World there was not another. The love of liberty there was; but a government founded in liberty there was not one besides. Some things other than the love of freedom are needful to form a great and free nation. Let us go farther then, and observe the wisdom and prudence by which, after a long and painful process, our fathers were prepared, in mind and heart, for the permanent possession, tempered enjoyment, and true use of that freedom, the love of which was rooted in their souls; the process by which, in the words of Milton, they were made into a "right pious, right honest, right holy nation," as well as a nation loving liberty. In running over that process, I am inclined to attach the most importance to the fact that they who planted New England, and all the generations of successors, to the war of Independence, were engaged in a succession of the severest and gravest trials and labors and difficulties which ever tasked the spirit of a man or a nation.

It has been said that there was never a great character, — never a truly strong, masculine, commanding character,— which was not made so by successive struggles with great difficulties. Such is the general rule of the moral world, undoubtedly. All history, all biography verify and illustrate it, and none more remarkably than our own.

It has seemed to me probable that if the Puritans, on their arrival here, had found a home like that they left, and a social system made ready for them, — if they had found the forest felled, roads constructed, rivers bridged, fields sown, houses built, a rich soil, a bright sun, and a balmy air, — if they had come into a country which for a hundred and fifty years was never to hear the war-whoop of a savage, or the tap of a

French drum, — if they had found a commonwealth civil and religious, a jurisprudence, a system of police, administration, and policy, all to their hands, churches scattered, districts, parishes, towns, and counties, widening one around the other, — if England had covered over their infancy with her mighty wing, spared charters, widened trade, and knit child to mother by parental policy, — it is probable that that impulse of high mind, and that unconquerable constancy of the first emigrants, might have subsided before the epoch of the drama of the Revolution. Their children might have grown light, luxurious, vain, and the sacred fire of liberty, cherished by the fathers in the times of the Tudors and Stuarts, might have died away in the hearts of a feeble posterity.

Ours was a different destiny. I do not mean to say that the whole Colonial Age was a scene of universal and constant suffering and labor, and that there was no repose; of peril pressing at every turn, and every moment, on everybody. But in its general course it was a time of suffering and of privation, of poverty or mediocrity of fortune, of sleepless nights, grave duties, serious aims; and I say it was a trial better fitted to train up a nation "in true wisdom, virtue, magnanimity, and the likeness of God," — better fitted to form temperate habits, strong character, resolute spirits, and all the radiant train of public and private virtues which stand before the stars of the throne of liberty, — than any similar period in the history of any nation, or of any but one, that ever existed.

Some seasons there were of sufferings so sharp and strange, that they might seem designed to test the energy of Puritan principles. Such was the summer and winter after Governor Winthrop's arrival in New England, 1670–1671. Such the winter and spring after the arrival of the Puritans at Plymouth, 1620–1621. They wasted away — young and old of the little flock — of consumption and fever of lungs; the living scarcely able to bury the dead; the well not enough to tend the sick; men who landed a few weeks before in full strength, their bones moistened with marrow, were seen to stagger and fall from faintness for want of food. In a country abounding in secret springs, they perished for want of a draught of good water. Childhood drooped and died away,

like a field-flower turned up by the ploughshare. Old age was glad to gather himself to his last sleep. Some sank down, broken-hearted, by the graves of beloved wives and sons. Of the whole one hundred and one who landed at Plymouth, there were once only seven able to render assistance to the dying and the sick.

A brilliant English writer, speaking of the Jews, exclaims, with surprise and indignation, that even a desert did not make them wise. Our fathers, let me say, not vaingloriously, were readier learned of wisdom. Their sufferings chastened, purified, and elevated them; and led them to repose their weary and stricken spirits upon the strength which upholds the world. Thus to be afflicted, thus to profit by affliction, is good for a nation as it is good for a man. To neither is it joyous, but grievous; to both it is all made up over and over again by a more exceeding weight of glory.

Look now, passing from the sufferings, to the gigantic labors of our Colonial Age, and calculate their influence on those who performed them.

The first great work of the earlier generations of New England was to reclaim the country, to fit it for the sustentation of life from day to day, from season to season, and thus to become the abode of an intellectual and social civilization advancing indefinitely. This is the first great work of all nations, who begin their existence in a country not before the residence of cultivated man. The nature of this work, — the ease and difficulty of performing it depending of course on the great natural characteristics of the region, — its fertility, its even or uneven surface, the quality, as well as the abundance or scarcity of its products, the brightness and dryness, or gloom and moisture of its skies, its cold or hot temperature, and the like, — the nature of this first and severest of the herculean labors of nations, perhaps quite as much as any other cause, perhaps as much as all other causes, affects the moral and mental character and habits of the people which have it to do. It has been maintained, and with great ingenuity, that the whole subsequent career of a nation has taken impulse and direction, from the circumstances of physical condition in which it came first into life. The children of the

luxurious East opened their eyes on plains, whose fertility a thousand harvests could not exhaust, renewing itself perpetually from the bounty of a prodigal nature, beneath bright suns, in a warm, balmy air, which floated around them like music and perfumes from revels on the banks of rivers by moonlight. "Every blast shook spices from the leaves, and every month dropped fruits upon the ground." "The blessings of nature were collected, and its evils extracted and excluded." Hence the immemorial character of a part of the tribes of Asia. They became indolent, effeminate, and timorous. Steeped in sensual enjoyments, the mind slept with the body; or if it awoke, unlike the reasoning, speculative, curious, and energetic intellect of Europe, it reposed in reverie; it diffused itself in long contemplation, musing rather than thinking, reading human destiny in the stars, but making no effort to comprehend the system of the world. Life itself there, is but a fine dream; and death is only a scattering of the garlands, a hushing of the music, a putting out of the lights of a midsummer night's feast. You would not look there for freedom, for morality, for true religion, for serious reflections.

The destiny of the most of Europe was different. Vast forests covering half a continent, rapid and broad rivers, cold winds, long winters, large tracts unsusceptible of cultivation, snow-clad mountains on whose tops the lightning plays impassive, — this was the world that fell to their lot. And hence partly, that race is active, laborious, curious, intellectual, full of energy, tending to freedom, destined to freedom, but not yet all free.

I cannot now pause to qualify this view, and make the requisite discriminations between the different States of that quarter of the world.

To the tempest-tossed and weather-beaten, yet sanguine and enthusiastic spirits who came hither, New England hardly presented herself at first in all that ruggedness and sternest wildness which nature has impressed indelibly upon her. But a few summers and winters revealed the whole truth. They had come to a country fresh from the hand of nature, almost as on the day of creation, covered with primeval woods, which concealed a soil not very fruitful and bearing only the hardier and coarser grains and grasses, broken into

rocky hills and mountains sending their gray summits to the skies, the upland levels, with here and there a strip of interval along a pleasant river, and a patch of salt-marsh by the side of the sea, — a country possessing and producing neither gold, nor diamonds, nor pearls, nor spices, nor opium, nor bread-fruit, nor silks, nor the true vine, — to a long and cold winter, an uncertain spring, a burning summer, and autumn with his fleecy clouds and bland south-west, red and yellow leaf and insidious disease; — such was the ungenial heaven beneath which their lot was cast; such was New England, yielding nothing to idleness, nothing to luxury, but yet holding out to faith and patience and labor, freedom and skill, and public and private virtue,—holding out to these the promise of a latter day afar off, of glory and honor and rational and sober enjoyment. Such was the country in which the rugged infancy of New England was raised. Such was the country which the Puritans were appointed to transpose into a meet residence of refinement and liberty. You know how they performed that duty. Your fathers have told you. From this hill, westward and southward, and eastward and northward, your eyes may see how they performed it. The wilderness and the solitary place were glad for them, and the desert rejoiced and blossomed as the rose. The land was a desolate wilderness before them; behind them, as the garden of Eden. How glorious a triumph of patience, energy, perseverance, intelligence, and faith! And then how powerfully and in how many ways must the fatigues, privations, interruptions, and steady advance and ultimate completion of that long day's work have reacted on the character and the mind of those who performed it! How could such a people ever again, if ever they had been, be idle, or frivolous, or giddy, or luxurious! With what a resistless accession of momentum must they turn to every new, manly, honest, and worthy labor! How truly must they love the land for which they had done so much! How ardently must they desire to see it covered over with the beauty of holiness and the glory of freedom as with a garment! With what a just and manly self-approbation must they look back on such labors and such success; and how great will such pride make any people!

There was another great work, different from this, and more

difficult, more glorious, more improving, which they had to do, and that was to establish their system of colonial government, to frame their code of internal law, and to administer the vast and perplexing political business of the colonies in their novel and trying relations to England, through the whole Colonial Age. Of all their labors this was the grandest, the most intellectual, the best calculated to fit them for independence. Consider how much patient thought, how much observation of man and life, how much sagacity, how much communication of mind with mind, how many general councils, plots, and marshalling of affairs, how much slow accumulation, how much careful transmission of wisdom, that labor demanded. And what a school of civil capacity this must have proved to them who partook in it! Hence, I think, the sober, rational, and practical views and conduct which distinguished even the first fervid years of the Revolutionary age. How little giddiness, rant, and foolery do you see there! No riotous and shouting processions, — no grand festivals of the goddess of reason, — no impious dream of human perfectibility, — no unloosing of the hoarded-up passions of ages from the restraints of law, order, morality, and religion, such as shamed and frightened away the new-born liberty of revolutionary France. Hence our victories of peace were more brilliant, more beneficial, than our victories of war. Hence those fair, I hope everlasting, monuments of civil wisdom, our State and Federal Constitutions. Hence the coolness, the practised facility, the splendid success, with which they took up and held the whip and reins of the fiery chariot flying through the zodiac, after the first driver had been stricken by the thunder from his seat.

Do you not think it was a merciful appointment that our fathers did not come to the possession of independence, and the more perfect freedom which it brought with it, as to a great prize drawn in a lottery, — an independent fortune left unexpectedly by the death of a distant relative of whom they had never heard before, — a mine of gold opened just below the surface on the side of the hill by a flash of lightning? If they had, it would have turned their heads or corrupted their habits. They were rather in the condition of one of the husbandmen of old Ipswich, a little turned of one-and-twenty, who has just paid off the last legacy, or the last gage upon the estate left

him by his father, — an estate where his childhood played with brothers and sisters now resting in early graves, in which the first little labors of his young hands were done, from which he can see the meeting-house spire above the old intervening elms, to which his own toil, mingled with that of his ancestors of many generations, has given all its value, which, before he had owned, he had learned how to keep, how to till, how to transmit to his heirs enlarged and enriched with a more scientific and tasteful cultivation.

I can only allude to one other labor, one other trial of the Colonial Age, — the wars in which for one hundred and fifty years our fathers were every moment engaged, or to which they were every moment exposed, and leave you to estimate the influence which these must have had on the mind and character, and at last on the grand destinies of New England and of North America.

It is dreadful that nations must learn war; but since they must, it is a mercy to be taught it seasonably and thoroughly. It had been appointed by the Infinite Disposer, that the liberties, the independence of the States of America should depend on the manner in which we should fight for them; and who can imagine what the issue of the awful experiment would have been, had they never before seen the gleam of an enemy's bayonets, or heard the beat of his drum?

I hold it to have been a great thing, in the first place, that we had among us, at that awful moment when the public mind was meditating the question of submission to the tea-tax, or resistance by arms, and at the more awful moment of the first appeal to arms, — that we had some among us who personally knew what war was. Washington, Putnam, Stark, Gates, Prescott, Montgomery, were soldiers already. So were hundreds of others of humbler rank, but not yet forgotten by the people whom they helped to save, who mustered to the camp of our first revolutionary armies. These all had tasted a soldier's life. They had seen fire, they had felt the thrilling sensations, the quickened flow of blood to and from the heart, the mingled apprehension and hope, the hot haste, the burning thirst, the feverish rapture of battle, which he who has not felt is unconscious of one half of the capacities and energies of his nature, which he who has felt, I am told, never forgets. They had

slept in the woods on the withered leaves or the snow, and awoke to breakfast upon birch bark and the tender tops of willow trees. They had kept guard on the outposts on many a stormy night, knowing perfectly that the thicket half a pistol-shot off, was full of French and Indian riflemen.

I say it was something that we had such men among us. They helped discipline our raw first levies. They knew what an army is, and what it needs, and how to provide for it. They could take that young volunteer of sixteen by the hand, sent by an Ipswich mother, who, after looking upon her son equipped for battle from which he might not return, Spartan-like, bid him go and behave like a man — and many, many such shouldered a musket for Lexington and Bunker Hill — and assure him, from their own personal knowledge, that after the first fire he never would know fear again, even that of the last onset. But the long and peculiar wars of New England had done more than to furnish a few such officers and soldiers as these. They had formed that public sentiment upon the subject of war which reunited all the armies, fought all the battles, and won all the glory of the Revolution. The truth is that war, in some form or another, had been, from the first, one of the usages, one of the habits, of colonial life. It had been felt, from the first, to be just as necessary as planting or reaping, — to be as likely to break out every day and every night as a thunder-shower in summer, and to break out as suddenly. There have been nations who boasted that their rivers or mountains never saw the smoke of an enemy's camp. Here the war-whoop awoke the sleep of the cradle; it startled the dying man on his pillow; it summoned young and old from the meeting-house, from the burial, and from the bridal ceremony, to the strife of death. The consequence was, that that steady, composed, and reflecting courage which belongs to all the English race grew into a leading characteristic of New England; and a public sentiment was formed, pervading young and old, and both sexes, which declared it lawful, necessary, and honorable to risk life, and to shed blood for a great cause, —for our family, for our fires, for our God, for our country, for our religion. In such a cause it declared that the voice of God Himself commanded to the field. The courage of New

England was the "courage of conscience." It did not rise to that insane and awful passion, — the love of war for itself. It would not have hurried her sons to the Nile, or the foot of the pyramids, or across the great raging sea of snows which rolled from Smolensko to Moscow, to set the stars of glory upon the glowing brow of ambition. But it was a courage which at Lexington, at Bunker Hill, at Bennington, and at Saratoga, had power to brace the spirit for the patriots' fight, — and gloriously roll back the tide of menaced war from their homes, the soil of their birth, the graves of their fathers, and the everlasting hills of their freedom.

But I cannot any farther pursue this sketch of the life which tasked the youthful spirit of New England. Other labors there were to be done; other trials to pass through; other influences to discipline them and make them fit for the rest which remains to the heirs of liberty.

> "So true it is — for such holy rest,
> Strong hands must toil — strong hearts endure."

It was a people thus schooled to the love and attainments and championship of freedom — its season of infant helplessness now long past, the strength and generosity and fire of a mighty youth, moving its limbs, and burning in its eye — a people, whose bright spirit had been fed midst the crowned heights, with hope and liberty and thoughts of power — this was the people whom our Revolution summoned to the grandest destiny in the history of nations. They were summoned, and a choice put before them: slavery, with present ease and rest and enjoyment, but all inglorious — the death of the nation's soul; and liberty, with battle and bloodshed, but the spring of all national good, of art, of plenty, of genius. Liberty born of the skies! breathing of all their odors, and radiant with all their hues! They were bidden to choose, and they chose wisely and greatly.

> They linked their hands — they pledged their stainless faith
> In the dread presence of attesting Heaven —
> They bound their hearts to sufferings and death
> With the severe and solemn transport given
> To bless such vows. How man had striven,
> How man might strive, and vainly strive they knew,
> And called upon their God.
> They knelt, and rose in strength.

I have no need to tell you the story of the Revolution, if the occasion were to justify it. Some of you shared in its strife; for to that, as to every other great duty, Ipswich was more than equal. Some who have not yet tasted of death, some perhaps even now here, and others who have followed or who went before their illustrious La Fayette. All of you partake of its fruits. All of you are encompassed about by its glory!

But now that our service of commemoration is ended, let us go hence and meditate on all that it has taught us. You see how long the holy and beautiful city of our liberty and our power has been in building, and by how many hands, and at what cost. You see the towering and steadfast height to which it has gone up, and how its turrets and spires gleam in the rising and setting sun. You stand among the graves of some — your townsmen, your fathers by blood, whose names you bear, whose portraits hang up in your homes, of whose memory you are justly proud — who helped in their day to sink those walls deep in their beds, where neither frost nor earthquake might heave them,—to raise aloft those great arches of stone,—to send up those turrets and spires into the sky. It was theirs to build; remember it is yours, under Providence, to keep the city, — to keep it from the sword of the invader, — to keep it from licentiousness and crime and irreligion, and all that would make it unsafe or unfit to live in, — to keep it from the fires of faction, of civil strife, of party spirit, that might burn up in a day the slow work of a thousand years of glory. Happy, if we shall so perform our duty that they who centuries hence shall dwell among our graves may be able to remember, on some such day as this, in one common service of grateful commemoration, their fathers of the *first* and of the *second* age of America,— those who through martyrdom and tempest and battle sought liberty, and made her their own, — and those whom neither ease nor luxury, nor the fear of man, nor the worship of man, could prevail on to barter her away!

THE AGE OF THE PILGRIMS THE HEROIC PERIOD OF OUR HISTORY:

AN ADDRESS DELIVERED IN NEW YORK BEFORE THE NEW-ENGLAND ASSOCIATION, DECEMBER, 1843.

We meet again, the children of the Pilgrims, to remember our fathers. Away from the scenes with which the American portions of their history are associated forever, and in all men's minds, — scenes so unadorned, yet clothed to the moral eye with a charm above the sphere of taste: the uncrumbled rock, the hill from whose side those "delicate springs" are still gushing, the wide, brown, low woods, the sheltered harbor, the little island that welcomed them in their frozen garments from the sea, and witnessed the rest and worship of that Sabbath-day before their landing, — away from all those scenes, — without the limits of the fond old colony that keeps their graves, without the limits of the New England which is their wider burial place and fitter monument, — in the heart of this chief city of the nation into which the feeble land has grown, — we meet again, to repeat their names one by one, to retrace the lines of their character, to recall the lineaments and forms over which the grave has no power, to appreciate their virtues, to recount the course of their life full of heroic deeds, varied by sharpest trials, crowned by transcendent consequences, to assert the directness of our descent from such an ancestry of goodness and greatness, to erect, refresh, and touch our spirits by coming for an hour into their more immediate presence, such as they were in the days of their human "agony of glory." The two centuries which interpose to hide them from our eye, centuries so brilliant with progress, so crowded by incidents, so fertile in accumulations, dissolve away for the moment as a curtain of clouds, and we are once more by their side. The

grand and pathetic series of their story unrolls itself around us, vivid as if with the life of yesterday. All the stages, all the agents, of the process by which they and the extraordinary class they belonged to, were slowly formed from the general mind and character of England; the influence of the age of the Reformation, with which the whole Christian world was astir to its profoundest depths and outermost limits, but which was poured out unbounded and peculiar on them, its children, its impersonation; that various persecution prolonged through two hundred years and twelve reigns, from the time of the preaching of Wickliffe, to the accession of James the First, from which they gathered sadly so many precious fruits,—a large measure of tenderness of conscience, the sense of duty, force of will, trust in God, the love of truth, and the spirit of liberty; the successive development and growth of opinions and traits and determinations and fortunes, by which they were advanced from Protestants to Republicans, from Englishmen to Pilgrims, from Pilgrims to the founders of a free Church, and the fathers of a free people in a new world; the retirement to Holland; the resolution to seek the sphere of their duties and the asylum of their rights beyond the sea; the embarkation at Delft Haven,—that scene of interest unrivalled, on which a pencil of your own has just enabled us to look back with tears, praise, and sympathy, and the fond pride of children; that scene of few and simple incidents, just the setting out of a handful of not then very famous persons on a voyage,—quite the commonest of occurrences,—but which dilates as you gaze on it, and speaks to you as with the voices of an immortal song; which becomes idealized into the auspicious going forth of a colony, whose planting has changed the history of the world,—a noble colony of devout Christians, educated and firm men, valiant soldiers, and honorable women; a colony on the commencement of whose heroic enterprise the selectest influences of religion seemed to be descending visibly, and beyond whose perilous path are hung the rainbow and the westward star of empire; the voyage of The Mayflower; the landing; the slow winter's night of disease and famine in which so many, the good, the beautiful, the brave sunk down and died, giving place at last to the spring-dawn of health and plenty; the meeting with the old red race on the hill beyond

the brook; the treaty of peace unbroken for half a century; the organization of a republican government in The Mayflower cabin; the planting of these kindred and coeval and auxiliar institutions, without which such a government can no more live than the uprooted tree can put forth leaf or flower; institutions to diffuse pure religion; good learning; austere morality; the practical arts of administration; labor, patience, obedience; "plain living and high thinking;" the securities of conservatism; the germs of progress; the laying deep and sure, far down on the rock of ages, of the foundation stones of the imperial structure, whose dome now swells towards heaven; the timely death at last, one after another, of the first generation of the original Pilgrims, not unvisited as the final hour drew nigh, by visions of the more visible glory of a latter day, — all these high, holy, and beautiful things come thronging fresh on all our memories, beneath the influence of the hour. Such as we heard them from our mothers' lips, such as we read them in the histories of kings, of religions, and of liberty, they gather themselves about us; familiar, certainly, but of an interest that can never die, — an interest intrinsical in themselves, yet heightened inexpressibly by their relations to that eventful future into which they have expanded, and through whose lights they show.

And yet, with all this procession of events and persons moving before us, and solicited this way and that by the innumerable trains of speculation and of feeling which such a sight inspires, we can think of nothing and of nobody, here and now, but the Pilgrims themselves. I cannot, and do not, wish for a moment to forget, that it is their festival we have come to keep. It is their tabernacles we have come to build. It is not the Reformation, it is not colonization, it is not ourselves, our present or our future, it is not political economy, or political philosophy, of which to-day you would have me say a word. We have a specific and single duty to perform. We would speak of certain valiant, good, and peculiar men, our fathers. We would wipe the dust from a few old, plain, noble urns. We would shun husky disquisitions, irrelevant novelties, and small display; would recall rather and merely the forms and lineaments of the heroic dead, — forms and features which the grave has not changed, over which the grave has no power.

The Pilgrims, then, of the first generation, just as they landed on the rock, are the topic of the hour. And in order to insure some degree of unity, and of definiteness of aim, and of impression, let me still more precisely propound as the subject of our thoughts, the Pilgrims, their age and their acts, as constituting a real and a true heroic period; one heroic period in the history of this Republic.

I regard it as a great thing for a nation to be able, as it passes through one sign after another of its zodiac pathway, in prosperity, in adversity, and at all times, — to be able to look to an authentic race of founders, and a historical principle of institution, in which it may rationally admire the realized idea of true heroism. Whether it looks back in the morning or evening of its day; whether it looks back as now we do, in the emulous fervor of its youth, or in the full strength of manhood, its breasts full of milk, its bones moistened with marrow; or in dotage and faintness, the silver cord of union loosened, the golden bowl of fame and power broken at the fountain; from the era of Pericles or the era of Plutarch, — it is a great and precious thing to be able to ascend to, and to repose its strenuous or its wearied virtue upon, a heroic age and a heroic race, which it may not falsely call its own. I mean by a heroic age and race, not exclusively or necessarily the earliest national age and race, but one, the course of whose history and the traits of whose character, and the extent and permanence of whose influences, are of a kind and power not merely to be recognized in after time as respectable or useful, but of a kind and a power to kindle and feed the moral imagination, move the capacious heart, and justify the intelligent wonder of the world. I mean by a nation's heroic age, a time distinguished above others, not by chronological relation alone, but by a concurrence of grand and impressive agencies with large results, — by some splendid and remarkable triumph of man over some great enemy, some great evil, some great labor, some great danger, — by uncommon examples of the rarer virtues and qualities, tried by an exigency that occurs only at the beginning of new epochs, the ascension of new dynasties of dominion or liberty, when the great bell of time sounds out another hour. I mean an age when extraordinary traits are seen, an age performing memorable deeds whereby a whole people,

whole generations, are made different and made better. I mean an age and race to which the arts may go back, and find real historical forms and groups, wearing the port and grace, and going on the errand of demi-gods, — an age far off, on whose moral landscape the poet's eye may light, and reproduce a grandeur and beauty stately and eternal, transcending that of ocean in storm or at peace, or of mountains, staying as with a charm the morning star in his steep course, or the twilight of a summer's day, or voice of solemn bird, — an age "doctrinal and exemplary," from whose personages, and from whose actions, the orator may bring away an incident, or a thought, that shall kindle a fire in ten thousand hearts, as on altars to their country's glory; and to which the discouraged teachers of patriotism and morality to corrupted and expiring States, may resort for examples how to live and how to die.

You see, then, that certain peculiar conditions and elements must meet to make a heroic period and a heroic race. You might call, without violence, the men who brought on and went through the war of Independence, or fell on the high places of its fields, — you might call them and their times heroic. But you would not so describe the half-dozen years from the peace to the Constitution, nor the wise men who framed that writing, nor the particular generation that had the sagacity and the tone to adopt it. Yet was this a grander achievement than many a Yorktown, many a Saratoga, many a Eutaw Springs; and this, too, in some just sense was the beginning of a national experience. To justify the application of this epithet, there must be in it somewhat in the general character of a period, and the character and fortunes of its actors, to warm the imagination, and to touch the heart. There must, therefore, be some of the impressive forms of danger there; there must be the reality of suffering, borne with the dignity of an unvanquished soul; there must be pity and terror in the epic, as in the tragic volume; there must be a great cause, acting on a conspicuous stage, or swelling towards an imperial consummation; some great interest of humanity must be pleading there on fields of battle, or in the desert, or on the sea!

When these constituents, or such as these, concur, there is a heroic time and race. Other things are of small account.

It may be an age of rude manners. Prominent men may cook their own suppers, like Achilles, yet how many millions of imaginations, besides Alexander's, have trembled at his anger, shuddered at his revenge, sorrowed with his griefs, kindled with his passion of glory, melted as he turns gently and kindly from the tears of Priam, childless, or bereaved of his dearest and bravest by his unmatched arm; — divine faces, like that of Rose Standish in the picture, may look out, as hers there does, not from the worst possible head-dress; men may have worn steeple-crowned hats, and long, peculiar beards; they may have been austere, formal, intolerant; they may have themselves possessed not one ray of fancy, not one emotion of taste, not one susceptibility to the grace and sublimity that there are in nature and genius; yet may their own lives and deaths have been a whole Iliad in action, grander, sweeter, of more mournful pathos, of more purifying influences, than anything yet sung by old or modern bard, in hall or bower. See, then, if we can find any of the constituents of such a period, in the character, time, and fortunes of the Pilgrims.

"Plantations," says Lord Bacon, "are amongst ancient, primitive, and heroical works." But he is thinking of plantations as they are the king's works, like parks or palaces, or solemn temples, or steadfast pyramids, as they show forth the royal mind, and heighten the royal glory. We are to seek the heroical ingredient in the planter himself, in the ends for which he set forth, the difficulties with which he contended, the triumphs which he won, the teeming harvest, sprung from seed sown with his tears. And we shall find it there.

It would be interesting, if it were possible, which it is not, to pause for a moment first, and survey the old English Puritan character, of which the Pilgrims were a variety. Turn to the class of which they were part, and consider it well for a minute in all its aspects. I see in it an extraordinary mental and moral phenomenon. Many more graceful and more winning forms of the human nature there have been, and are, and shall be. Many men, many races there are, have been, and shall be, of more genial dispositions, more tasteful accomplishment, a quicker eye for the beautiful of art and nature; less disagreeably absorbed, less gloomily careful and troubled about the mighty interests of the spiritual being or of the common-

wealth; wearing a more decorated armor in battle; contributing more wit, more song, and heartier potations, to the garland feast of life. But where, in the long series of ages that furnish the matter of history, was there ever one — where *one* — better fitted by the possession of the highest traits of man to do the noblest work of man, — better fitted to consummate and establish the Reformation, save the English constitution at its last gasp from the fate of all other European constitutions, and prepare on the granite and iced mountain-summits of the New World, a still safer rest, for a still better liberty?

I can still less pause to trace the history of these men as a body, or even to enumerate the succession of influences — the spirit of the Reformation within, two hundred years of civil and spiritual tyranny without — which, between the preaching of Wickliffe and the accession of James I., had elaborated them out of the general mind of England; had attracted to their ranks so much of what was wisest and best of their nation and time; had cut and burned, as it were, into their natures the iron quality of the higher heroism, — and so accomplished them for their great work there and here. The whole story of the cause and the effect is told in one of their own illustrations a little expanded: "Puritanism was planted in the region of storms, and there it grew. Swayed this way, and that, by a whirlwind of blasts all adverse, it sent down its roots below frost, or drought, or the bed of the avalanche; its trunk went up, erect, gnarled, seamed, not riven by the bolt; the evergreen enfolded its branches; its blossom was like to that 'ensanguined flower inscribed with woe.'"

One influence there was, however, I would mark, whose permanent and various agency on the doctrines, the character, and the destinies of Puritanism, is among the most striking things in the whole history of opinion. I mean its contact with the republican reformers of the continent, and particularly with those of Geneva.

In all its stages, certainly down to the peace of Westphalia, in 1648, all the disciples of the Reformation, wherever they lived, were in some sense a single brotherhood, whom diversity of speech, hostility of governments, and remoteness of place,

could not wholly keep apart. Local persecutions drew the tie closer. In the reign of Mary, from 1553 to 1558, a thousand learned Englishmen fled from the stake at home, to the happier states of continental Protestantism. Of these, great numbers, I know not how many, came to Geneva. There they awaited the death of the Queen; and then, sooner or later, but in the time of Elizabeth, went back to England.

I ascribe to that five years in Geneva an influence which has changed the history of the world. I seem to myself to trace to it, as an influence on the English race, a new theology; new politics; another tone of character; the opening of another era of time and of liberty. I seem to myself to trace to it the great civil war of England; the Republican Constitution framed in the cabin of The Mayflower; the divinity of Jonathan Edwards; the battle of Bunker Hill; the Independence of America. In that brief season, English Puritanism was changed fundamentally, and forever. Why should we think this extraordinary? There are times when whole years pass over the head of a man, and work no change of mind at all. There are others again, when, in an hour, old things pass away, and all things become new! A verse of the Bible; a glorious line of some old poet, dead a thousand years before; the new-made grave of a child; a friend killed by a thunderbolt; some single, more intolerable pang of despised love; some more intolerable act of "the oppressor's wrong, the proud man's contumely;" a gleam of rarer beauty on a lake, or in the sky; something slighter than the fall of a leaf, or a bird's song on the shore,—transforms him as in the twinkling of an eye. When, before or since, in the history of the world, was the human character subjected to an accumulation of agents, so fitted to create it all anew, as those which encompassed the English exiles at Geneva?

I do not make much account in this, of the material grandeur and beauty which burst on their astonished senses there, as around the solitude of Patmos,—although I cannot say that I know, or that anybody knows, that these mountain summits, ascending "from their silent sea of pines," higher than the thunder cloud, reposing among their encircling stars, while the storm sweeps by below, before which navies, forests, the cathedral tombs of kings, go down, all on fire with the

rising and descending glory of the sun, wearing his rays as a crown, unchanged, unscaled; the contrasted lake; the arrowy Rhone and all his kindred torrents; the embosomed city,—I cannot say that these things have no power to touch and fashion the nature of man. I cannot say that in the leisure of exile, a cultivated and pious mind, opened, softened, tinged with a long sorrow, haunted by a brooding apprehension, perplexed by mysterious providences, waiting for the unravelling of the awful drama in England,—a mind, if such there were, like Luther's, like Milton's, like Zwingle's, might not find itself stayed, and soothed, and carried upward, at some evening hour, by these great symbols of a duration without an end, and a throne above the sky. I cannot say that such an impression might not be deepened by a renewed view, until the outward glory reproduced itself in the inward strength; or until

> "The dilating soul, enwrapt, transfused,
> Into the mighty vision passing there,
> As in her natural form, swelled vast to heaven."

Nobody can say that.

It is of the moral agents of change that I would speak. I pass over the theology which they learned there, to remark on the politics which they learned. The asylum into which they had been admitted, the city which had opened its arms to pious, learned men, banished by the tyranny of an English throne and an English hierarchy, was a republic. In the giant hand of guardian mountains, on the banks of a lake lovelier than a dream of the Fairy Land, in a valley which might seem hollowed out to enclose the last home of liberty, there smiled an independent, peaceful, law-abiding, well-governed, and prosperous commonwealth. There was a state without king or nobles; there was a church without a bishop; there was a people governed by grave magistrates which it had selected, and equal laws which it had framed. And to the eye of these exiles, bruised and pierced through by the accumulated oppressions of a civil and spiritual tyranny, to whom there came tidings every day from England that another victim had been struck down, on whose still dear home in the sea, every day a gloomier shadow seemed to fall from the frowning heights of power, was not that republic the brightest image in the whole transcendent

scene? Do you doubt that they turned from Alpine beauty and Alpine grandeur, to look with a loftier emotion, for the first time in their lives, on the serene, unveiled statue of classical Liberty? Do you not think that this spectacle, in these circumstances, prompted in such minds pregnant doubts, daring hopes, new ideas, thoughts that wake to perish never, doubts, hopes, ideas, thoughts, of which a new age is born? Was it not then and there that the dream of republican liberty — a dream to be realized somewhere, perhaps in England, perhaps in some region of the Western sun — first mingled itself with the general impulses, the garnered hopes of the Reformation? Was that dream ever let go, down to the morning of that day when the Pilgrims met in the cabin of their shattered bark, and there, as she rose full on the stern New England sea, and the voices of the November forest rang through her torn topmast rigging, subscribed the first republican constitution of the New World? I confess myself of the opinion of those who trace to this spot, and that time, the Republicanism of the Puritans. I do not suppose, of course, that they went back with the formal design to change the government of England. The contests and the progress of seventy years more were required, to mature and realize so vast a conception as that. I do not suppose, either, that learned men, — students of antiquity, the readers of Aristotle and Thucydides and Cicero, the contemporaries of Buchanan, the friends of his friend, John Knox, — needed to go to Geneva to acquire the idea of a commonwealth. But there they saw the problem solved. Popular government was possible. The ancient prudence and the modern, the noble and free genius of the old Paganism and the Christianity of the Reformation, law and liberty, might be harmoniously blended in living systems. This experience they never forgot.

I confess, too, that I love to trace the pedigree of our transatlantic liberty, thus backwards through Switzerland, to its native land of Greece. I think this the true line of succession, down which it has been transmitted. There was a liberty which the Puritans found, kept, and improved in England. They would have changed it, and were not able. But that was a kind which admitted and demanded an inequality of many; a subordination of ranks; a favored eldest son; the

ascending orders of a hierarchy; the vast and constant pressure of a superincumbent crown. It was the liberty of feudalism. It was the liberty of a limited monarchy, overhung and shaded by the imposing architecture of great antagonistic elements of the state. Such was not the form of liberty which our fathers brought with them. Allowing, of course, for that anomalous tie which connected them with the English crown three thousand miles off, it was republican freedom, as perfect the moment they stepped on the rock as it is to-day. It had not been all born in the woods of Germany; by the Elbe or Eyder; or the plains of Runnymede. It was the child of other climes and days. It sprang to life in Greece. It gilded next the early and the middle age of Italy. It then reposed in the hallowed breast of the Alps. It descended at length on the iron-bound coast of New England, and set the stars of glory there. At every stage of its course, at every reappearance, it was guarded by some new security; it was embodied in some new element of order; it was fertile in some larger good; it glowed with a more exceeding beauty. Speed its way; perfect its nature!

> Take, Freedom! take thy radiant round,
> When dimmed revive, when lost return,
> Till not a shrine through earth be found,
> On which thy glories shall not burn.

Thus were laid the foundations of the mind and character of Puritanism. Thus, slowly, by the breath of the spirit of the age, by the influence of undefiled religion, by freedom of the soul, by much tribulation, by a wider survey of man, nature, and human life, it was trained to its work of securing and improving the liberty of England, and giving to America a better liberty of her own. Its day over, and its duty done, it was resolved into its elements, and disappeared among the common forms of humanity, apart from which it had acted and suffered, above which it had to move, out of which by a long process it had been elaborated. Of this stock were the Pilgrim Fathers. They came of heroical companionship. Were their works heroical?

The planting of a colony in a new world, which may grow, and which does grow, to a great nation, where there was none before, is intrinsically, and in the judgment of the

world, of the largest order of human achievement. Of the chief of men are the *conditores imperiorum*. To found a state upon a waste earth, wherein great numbers of human beings may live together, and in successive generations, socially and in peace, knit to one another by the innumerous ties, light as air, stronger than links of iron, which compose the national existence, — wherein they may help each other, and be helped in bearing the various lot of life, — wherein they may enjoy and improve, and impart and heighten enjoyment and improvement, — wherein they may together perform the great social labors, may reclaim and decorate the earth, may disinter the treasures that grow beneath its surface, may invent and polish the arts of usefulness and beauty, may perfect the loftier arts of virtue and empire, open and work the richer mines of the universal youthful heart and intellect, and spread out a dwelling for the Muse on the glittering summits of Freedom, — to found such a state is first of heroical labors, and heroical glories. To build a pyramid or a harbor, to write an epic poem, to construct a system of the universe, to take a city, are great, or may be, but far less than this.

He, then, who sets a colony on foot, designs a great work. He designs all the good, and all the glory, of which, in the series of ages, it may be the means; and he shall be judged more by the lofty ultimate aim and result, than by the actual instant motive. You may well admire, therefore, the solemn and adorned plausibilities of the colonizing of Rome from Troy, in the Æneid; though the leader had been burned out of house and home, and could not choose but go. You may find in the flight of the female founder of the gloomy greatness of Carthage, a certain epic interest; yet was she running from the madness of her husband to save her life. Emigrations from our stocked communities of undeified men and women, — emigrations for conquest, for gold, for very restlessness of spirit, — if they grow towards an imperial issue, have all thus a prescriptive and recognized ingredient of heroism. But when the immediate motive is as grand as the ultimate hope was lofty, and the ultimate success splendid, then, to use an expression of Bacon's, "the music is fuller."

I distinguish, then, this enterprise of our fathers, in the first place, by the character of the immediate motive.

And that was, first, a sense of religious duty. They had adopted opinions in religion, which they fully believed they ought to profess, and a mode of public worship and ordinances, which they fully believed they ought to observe. They could not do so in England; and they went forth — man, woman, the infant at the breast — across an ocean in winter, to find a wilderness where they could. To the extent of this motive, therefore, they went forth to glorify God, and by obeying his written will, and his will unwritten, but uttered in the voice of conscience concerning the chief end of man.

It was next, a thirst for freedom from unnecessary restraint, which is tyranny, — freedom of the soul, freedom of thought, a larger measure of freedom of life, — a thirst which two centuries had been kindling, a thirst which must be slaked, though but from the mountain torrent, though but from drops falling from the thunder cloud, though but from fountains lone and far, and guarded as the diamond of the desert.

These were the motives, — the sense of duty, and the spirit of liberty. Great sentiments, great in man, in nations, "pregnant with celestial fire!" — wherewithal could you fashion a people for the contentions and honors and uses of the imperial state so well as by exactly these? To what, rather than these, would you wish to trace up the first beatings of the nation's heart? If, from the whole field of occasion and motive, you could have selected the very passion, the very chance, which should begin your history, the very texture and pattern and hue of the glory which should rest on its first days, could you have chosen so well? The sense of duty, the spirit of liberty, not prompting to vanity or luxury or dishonest fame, to glare or clamor or hollow circumstance of being, silent, intense, earnest, of force to walk through the furnace of fire, yea, the valley of the shadow of death, to open a path amid the sea, to make the wilderness to bud and blossom as the rose, to turn back half a world in arms, to fill the amplest measure of a nation's praise!

I am glad, then, that one of our own poets could truly say,

> "Nor lure of conquest's meteor beam,
> Nor dazzling mines of fancy's dream,
> Nor wild adventure's love to roam,
> Brought from their fathers' ancient home,
> O'er the wide sea, the Pilgrim host!"

I should be glad of it, if I were looking back to the past of our history merely for the moral picturesque, — if I were looking back merely to find splendid moral scenery, mountain elevations, falls of water watched by the rainbow of sunlight and moonlight, colossal forms, memorable deeds, renown and grace that could not die, — if I were looking merely to find materials for sculpture, for picture, for romance, — subjects for the ballad by which childhood shall be sung to sleep, subjects for the higher minstrelsy that may fill the eye of beauty and swell the bosom of manhood, — if I were looking back for these alone, I should be glad that the praise is true. Even to such an eye, the embarkation of the Pilgrims and the lone path of The Mayflower upon the "astonished sea," were a grander sight than navies of mightiest admirals seen beneath the lifted clouds of battle; grander than the serried ranks of armed men moving by tens of thousands to the music of an unjust glory. If you take to pieces and carefully inspect all the efforts, all the situations, of that moral sublime which gleams forth, here and there, in the true or the feigned narrative of human things, — deaths of martyrs, or martyred patriots, or heroes in the hour of victory, revolutions, reformations, self-sacrifices, fields lost or won, — you will find nothing nobler at their source than the motives and the hopes of that ever-memorable voyage. These motives and these hopes — the sacred sentiments of duty, obedience to the will of God, religious trust, and the spirit of liberty — have inspired, indeed, all the beautiful and all the grand in the history of man. The rest is commonplace. "The rest is vanity; the rest is crime."

I distinguish this enterprise of our fathers next, by certain peculiarities of trial which it encountered and vanquished on the shores of the New World. You have seen the noble spring of character and motive from which the current of our national fortunes has issued forth. You can look around you to-day, and see into how broad and deep a stream that current has expanded, what beams of the sun, still climbing the eastern sky, play on its surface, what accumulations of costly and beautiful things it bears along, through what valley of happiness and rest it rolls towards some mightier sea. But turn for a moment to its earlier course.

The first generation of the Pilgrims arrived in 1620. I suppose that within fifty years more that generation had wholly passed away. Certainly its term of active labor and responsible care had been accomplished. Looking to its actual achievements, our first, perhaps our final impulse is, not to pity, but to congratulate these ancient dead, on the felicity and the glory of their lot on earth. In that brief time, not the full age of man, — in the years of nations, in the larger cycles of the race, less than a moment, — the New England which to-day we love, to which our hearts untravelled go back, even from this throne of the American commercial world, — that New England, in her groundwork and essential nature, was established forever between her giant mountains and her espoused sea. There already — ay, in The Mayflower's cabin, before they set foot on shore — was representative republican government. There were the congenial institutions and sentiments from which such government imbibes its power of life. There already, side by side, were the securities of conservatism and the germs of progress. There already were the congregational church and the free school; the trial by jury; the statutes of distributions; just so much of the written and unwritten reason of England as might fitly compose the jurisprudence of liberty. By a happy accident, or instinct, there already was the legalized and organized town, that seminary and central point, and exemplification of elementary democracy. Silently adopted, everywhere and in all things assumed, penetrating and tinging everything, — the church, the government, law, education, the very structure of the mind itself, — was the grand doctrine, that all men are born equal and born free, that they are born to the same inheritance exactly of chances and of hopes; that every child, on every bosom, of right ought to be, equally with every other, invited and stimulated, by every social and every political influence, to strive for the happiest life, the largest future, the most conspicuous virtue, the fullest mind, the brightest wreath.

There already were all, or the chief and higher influences, by which comes the heart of a nation. There was reverence of law, — "Our guardian angel, and our avenging friend." There were the councils of the still venerated aged. There was the open Bible. There were marriage, baptism, the burial

of the dead, the keeping of the Sabbath-day, the purity of a sister's love, a mother's tears, a father's careful brow. All these there had been provided and garnered up. With how much practical sagacity they had been devised; how skilfully adapted to the nature of things and the needs of men; how well the principle of permanence had been harmonized with the principle of progression; what diffusiveness and immortality of fame they will insure, we have lived late enough to know. On these works, legible afar off, cut deep beyond the tooth of time, the long procession of the generations shall read their names.

But we should miss the grandest and most salutary lesson of our heroic age; we should miss the best proof and illustration of its heroic claims, if we should permit the wisdom with which that generation acted, to hide from our view the intensity and dignity with which they suffered. It was therefore that I was about to distinguish this enterprise, in the second place, by certain peculiarities of its trials.

The general fact and the mournful details of that extremity of suffering which marked the first few years from the arrival, you all know. It is not these I design to repeat. We have heard from our mothers' lips, that, although no man or woman or child perished by the arrow, mightier enemies encompassed them at the very water's edge. Of the whole number of one hundred, one half landed to die within a year, — almost one half in the first three months, — to die of disease brought on by the privations and confinement of the voyage, by wading to the land, by insufficient and unfit food and dress and habitation, — brought on thus, but rendered mortal by want of that indispensable and easy provision which Christianity, which Civilization everywhere makes for all their sick. Once seven only were left in health and strength, to attend on the others. There and thus they died. "In a battle," said the admirable Robinson, writing from Leyden to the survivors in the June after they landed, — "in a battle it is not looked for but that divers should die; it is thought well for a side, if it get the victory, though with the loss of divers, if not too many or too great." But how sore a mortality in less than a year, almost within a fourth of that time, of fifty in one hundred!

In a late visit to Plymouth, I sought the spot where these earlier dead were buried. It was on a bank, somewhat elevated, near, fronting, and looking upon the waves, — symbol of what life had been to them, — ascending inland behind and above the rock, — symbol also of that Rock of Ages on which the dying had rested in the final hour. As the Pilgrims found these localities, you might stand on that bank and hear the restless waters chafe and melt against that steadfast base; the unquiet of the world composing itself at the portals of the grave. There certainly were buried the first governor, and Rose, the wife of Miles Standish. "You will go to them," wrote Robinson in the same letter from which I have quoted, "but they shall not return to you."

When this sharp calamity had abated, and before, came famine. "I have seen," said Edward Winslow, "strong men staggering through faintness for want of food." And after this, and during all this, and for years, there brooded in every mind, not a weak fear, but an intelligent apprehension, that at any instant — at midnight, at noonday, at the baptism, at the burial, in the hour of prayer — a foe more cruel than the grave, might blast in an hour that which disease and want had so hardly let live. How they bore all this, you also know. One fact suffices. When in April the Mayflower sailed for England, not one Pilgrim was found to go.

The peculiarity which has seemed to me to distinguish these trials of the Pilgrim Age from those, from the chief of those, which the general voice of literature has concurred to glorify as the trials of heroism; the peculiarity which gives to these, and such as these, the attributes of a truer heroism, is this — that they had to meet them on what was then an humble, obscure, and distant stage; with no numerous audience to look on and applaud, and cast its wreaths on the fainting brow of him whose life was rushing with his blood, and unsustained by a single one of those stronger and more stimulating and impulsive passions and aims and sentiments, which carry a soldier to his grave of honor as joyfully as to the bridal bed. Where were the Pilgrims while in this furnace of affliction? Who saw and cared for them? A hundred persons, understood to be Lollards, or Precisians, or Puritans, or Brownists, had sailed away some three thousand miles, to arrive on a win-

ter's coast, in order to be where they could hear a man preach without a surplice! That was just about all, England, or the whole world of civilization, at first knew, or troubled itself to believe, about the matter. If every one had died of lung fever, or starved to death, or fallen by the tomahawk, that first winter, and The Mayflower had carried the news, I wonder how many of even the best in England — the accomplished, the beautiful, the distinguished, the wise — would have heard of it. A heart, or more than one, in Leyden, would have broken; and that had been all. I wonder if King James would have cried as heartily as in the "Fortunes of Nigel" he does in anticipation of his own death and the sorrow of his subjects! I wonder what in a later day the author of "Hudibras" and the author of the "Hind and Panther," would have found to say about it, for the wits of Charles the Second's court. What did anybody even in Puritan England know of these Pilgrims? They had been fourteen years in Holland; English Puritanism was taking care of itself! They were alone on the earth; and there they stood directly, and only, in their great Taskmaster's eye. Unlike even the martyrs, around whose ascending chariot-wheels and horses of fire, congregations might come to sympathize, and bold blasphemers to be defied and stricken with awe, — these were all alone. Those two ranges of small houses, not over ten in all, with oil paper for windows; that ship, The Mayflower, riding at the distance of a mile, — these were every memorial and trace of friendly civilization in New England. Primeval forests, a winter sea, a winter sky, enclosed them about, and shut out every approving and every sympathizing eye of man! To play the part of heroism on its high places is not difficult. To do it alone, as seeing Him who is invisible, was the gigantic achievement of our age and our race of heroism.

I have said, too, that a peculiarity in their trial was, that they were unsustained altogether by every one of the passions, aims, stimulants, and excitations, — the anger, the revenge, the hate, the pride, the awakened dreadful thirst of blood, the consuming love of glory, that burn, as in volcanic isles, in the heart of a mere secularized heroism. Not one of all these aids did, or could, come in use for them at all. Their charac-

ter and their situation, both, excluded them. Their enemies were disease, walking in darkness and wasting at noonday; famine which, more than all other calamity, bows the spirit of man, and teaches him what he is; the wilderness; spiritual foes in the high places of the unseen world. Even when the first Indian was killed, — in presence of which enemy, let me say, not one ever quailed, — the exclamation of Robinson was, "Oh that you had converted some, before you had killed any!"

Now, I say, the heroism which in a great cause can look all the more terrible ills that flesh is heir to calmly in the face, and can tread them out as sparks under its feet without these aids, is at least as lofty a quality as that which cannot. To my eye, as I look back, it looms on the shores of the past with a more towering grandeur. It seems to me to speak from our far ancestral life, a higher lesson, to a nobler nature; certainly it is the rarer and more difficult species. If one were called on to select the more glittering of the instances of military heroism to which the admiration of the world has been most attracted, he would make choice, I imagine, of the instance of that desperate valor, with which, in obedience to the laws, Leonidas and his three hundred Spartans, cast themselves headlong at the passes of Greece on the myriads of their Persian invaders. From the simple page of Herodotus, longer than from the Amphictyonic monument, or the games of the commemoration, that act speaks still to the tears and praise of all the world. Yet I agree with a late brilliant writer in his speculation on the probable feelings of that devoted band, left alone, or waiting, till day should break, the approach of a certain death in that solitary defile. "Their enthusiasm, and that rigid and Spartan spirit which had made all ties subservient to obedience to the law, all excitement tame to that of battle, all pleasures dull to the anticipation of glory, probably rendered the hour preceding death the most enviable of their lives. They might have exulted in the same elevating fanaticism which distinguished afterwards the followers of Mahomet, and have seen that opening paradise in immortality below, which the Moslemin beheld in anticipation above." Judge if it were not so. Judge if a more decorated and conspicuous stage was ever erected for the transaction of a deed of fame. Every eye in Greece; every eye throughout the world of civi-

lization, — throughout even the civilized and barbaric East, — was felt to be turned directly on the playing of that brief part. There passed round that narrow circle in the tent, the stern, warning image of Sparta, pointing to their shields and saying, "With these to-morrow, or upon them!" Consider that the one concentrated and comprehensive sentiment, graven on their souls as by fire and by steel; by all the influences of their whole life; by the mother's lips; by the father's example; by the law; by venerated religious rites; by public opinion strong enough to change the moral qualities of things; by the whole fashion and nature of Spartan culture, was this: seek first, seek last, seek always, the glory of conquering or falling on a well-fought field. Judge if that night, as they watched the dawn of the last morning their eyes could ever see; as they heard with every passing hour the hum of the invading host, his dusky lines stretched out without end, and now almost encircling them around; as they remembered their unprofaned home, city of heroes and of the mothers of heroes; judge if watching there in the gateway of Greece, this sentiment did not grow to the nature of madness; if it did not run in torrents of literal fire to and from the laboring heart. When morning came and passed, and they had dressed their long locks, and when at noon the countless and glittering throng was seen at last to move, was it not with rapture, as if all the enjoyment of all the sensations of life was in that one moment, that they cast themselves, with the fierce gladness of mountain torrents, on that brief revelry of glory?

I acknowledge the splendor of that transaction in all its aspects. I admit its morality, too, and its useful influence on every Grecian heart, in that her great crisis. And yet do you not think, that whoso could by adequate description bring before you that first winter of the Pilgrims; its brief sunshine; the nights of storms slow waning; its damp or icy breath felt on the pillow of the dying; its destitution; its contrasts with all their former experience of life; its insulation and utter loneliness; its death-beds and burials; its memories; its apprehensions; its hopes; the consultations of the prudent; the prayers of the pious; the occasional hymn which may have soothed the spirit of Luther, in which the strong heart threw off its burthen and asserted its unvanquished nature; do you not think

that whoso could describe them calmly waiting in that defile, lonelier and darker than Thermopylæ, for a morning that might never dawn, or might show them when it did, a mightier arm than the Persian, raised as in act to strike, would he not sketch a scene of more difficult and rarer heroism, — a scene, as Wordsworth has said, "Melancholy, yea dismal, yet consolatory and full of joy," — a scene even better fitted than that to succor, to exalt, to lead the forlorn hopes of all great causes, till time shall be no more?

I can seem to see, as that hard and dark season was passing away, a diminished procession of these Pilgrims following another, dearly loved and newly dead, to that bank of graves, and pausing sadly there before they shall turn away to see that face no more. In full view from that spot is The Mayflower still riding at her anchor, but to sail in a few days more for England, leaving them alone, the living and the dead, to the weal or woe of their new home. I cannot say what was the entire emotion of that moment and that scene; but the tones of the venerated elder's voice, as they gathered round him, were full of cheerful trust, and they went to hearts as noble as his own. "This spot," he might say, "this line of shore, yea, this whole land, grows dearer daily, were it only for the precious dust which we have committed to its bosom. I would sleep here and have my own hour come, rather than elsewhere, with those who shared with us in our exceeding labors, whose burdens are now unloosed forever. I would be near them in the last day, and have a part in their resurrection. And now," he proceeded, "let us go from the side of the grave to work with all our might that which we have to do. It is on my mind that our night of sorrow is wellnigh ended, and that the joy of our morning is at hand. The breath of the pleasant south-west is here, and the singing of birds. The sore sickness is stayed; somewhat more than half our number still remain; and among these some of our best and wisest, though others are fallen on sleep. Matter of joy and thanksgiving it is, that among you all, the living and the dead, I know not one, even when disease had touched him, and sharp grief had made his heart as a little child's, who desired, yea, who could have been entreated, to go back to England by yonder ship.

Plainly is it God's will that we stand or fall here. All His providences these hundred years declare it as with beams of the sun. Did He not set His bow in the clouds in that bitterest hour of our embarking, and build His glorious ark upon the sea for us to sail through hitherward? Wherefore, let us stand in our lot! If He prosper us we shall found a church against which the gates of hell shall not prevail; and a colony, yea, a nation, by which all other nations shall be healed. Millions shall spring from our loins, and trace back with lineal love their blood to ours. Centuries hereafter, in great cities, the capitals of mighty States, from the tribes of a common Israel, shall come together the good, the eminent, the beautiful, to remember our dark day of small things; yea, generations shall call us blessed!"

Without a sigh, calmly, with triumph, they sent The Mayflower away, and went back, these stern, strong men, all, all, to their imperial labors.

I have said that I deemed it a great thing for a nation, in all the periods of its fortunes, to be able to look back to a race of founders and a principle of institution in which it might seem to see the realized idea of true heroism. That felicity, that pride, that help, is ours. Our past — both its great eras, that of settlement and that of independence — should announce, should compel, should spontaneously evolve as from a germ, a wise, moral, and glorious future. These heroic men and women should not look down on a dwindled posterity. It should seem to be almost of course, too easy to be glorious, that they who keep the graves, bear the name, and boast the blood, of men in whom the loftiest sense of duty blended itself with the fiercest spirit of liberty, should add to their freedom, justice; justice to all men, to all nations; justice, that venerable virtue, without which freedom, valor, and power, are but vulgar things.

And yet is the past nothing, even our past, but as you, quickened by its examples, instructed by its experience, warned by its voices, assisted by its accumulated instrumentality, shall reproduce it in the life of to-day. Its once busy existence, various sensations, fiery trials, dear-bought

triumphs; its dynasty of heroes, all its pulses of joy and anguish, and hope and fear, and love and praise, are with the years beyond the flood. "The sleeping and the dead are but as pictures." Yet, gazing on these, long and intently and often, we may pass into the likeness of the departed, — may emulate their labors, and partake of their immortality.

THE POWER OF A STATE DEVELOPED BY MENTAL CULTURE:

A LECTURE DELIVERED BEFORE THE MERCANTILE LIBRARY ASSOCIATION, NOVEMBER 18, 1844.

THE transition from the scenes which have been passing before us for the last few months, to such a spectacle as this, is so sudden, so delightful, that I can scarcely refrain, as I cast my eyes over this composed and cultivated assembly, from exclaiming, "Hail, holy light!" The clamor, tumult, and stimulations which attend that great trial and great task of liberty through which we have just gone, — a nation's choice of its ruler, — those vast gatherings of the people, — not quite in their original and ultimate sovereignty above or without the law, but in mass and bodily numbers without number; processions without end, — by daylight and torchlight — under the law; the stormy wave of the multitude rising and falling to the eloquence of liberty, — if it were eloquence at all; the hope, the fear, the anxious care, the good news waited for and not coming, the bad news riding somewhere about a couple of hundred miles in advance of the express of either side; the cheers of your co-workers; the hissings and groanings, not to be uttered, of your opponents, — all are passed away as dreams. We find ourselves collected without distinction of party, without memory of party, in the security and confidence of reconciliation, or at least of truce, in the still air, — upon the green and neutral ground of thoughts and studies common and grateful to us all. To look backward brings to mind what Lenox says to Macbeth in the morning, before he had heard of the murder of the king.

> "The night has been unruly; where we lay
> Our chimneys were blown down, and as they say
> Lamentings heard in the air,

> And prophesyings, with accents terrible,
> Of dire combustion and confused events
> New-hatched to the woful time!"

The night has passed, and the morning of an eventful day is risen. So much we know; and it is all we know.

Delightful, in some sense, as I feel this change of scene, of society, and of influences to be, I have found myself unable and unwilling, in the selection of a topic for the hour of this meeting, altogether to forget the occasion to which I have referred. I have rather desired to see if we might not all, without distinction of party, (for of the existence of party we know nothing here,) — if we might not all, the winner and the loser — contrive to learn some useful lesson from the occasion. All that happens in the world of Nature or Man, — every war; every peace; every hour of prosperity; every hour of adversity; every election; every death; every life; every success and every failure, — all change, — all permanence, — the perished leaf; the unutterable glory of stars, — all things speak truth to the thoughtful spirit.

"List ever, then, to the words of Wisdom, whether she speaketh to the soul in the full chords of revelation, in the teaching of earth or air or sky, or in the still melodies of thought!"

I wonder, then, if during the labors and excitations of the late election, and in the contemplation of possible results near and far forward, the inquiry has not occurred to you, as to me it has a thousand times, is there no way, are there no expedients by which such a State as Massachusetts, for example, may remain in the Union, performing the duties, partaking as far as may be of the good of Union, and yet be in some greater degree than now she is, independent of and unaffected by the administrative and legislative policy of Union? Is there no way to secure to ourselves a more steady, sure, progressive prosperity, — such a prosperity in larger measure than we are apt to imagine, — whatever national politics come uppermost? Is there no way to sink the springs of our growth and greatness so deep, that the want of a little rain or a little dew, a little too much sunshine or too much shade from Washington, shall not necessarily cut off "the herd from the stalls" and cause the "fields to yield

no meat"? Must it be, that because the great central regions, the valley of the Mississippi, the undefined and expanding South-west, have attracted to themselves the numerical supremacy — that our day is done? Is our voice, once

> —— "Their liveliest pledge
> Of hope in fears and dangers, heard so oft
> In worst extremes, and on the perilous edge
> Of battle when it raged in all assaults
> Their surest signal," —

is that voice to be heard no more? Have we declined, must we decline, into the condition of a province — doomed to await passively the edict of a distant palace, which shall cause it to thrive to-day and pine to-morrow; now raise it to a gaudy and false prosperity, and then press "its beaming forehead to the dust"? Or is there a way by which we yet may be, and forever may be, the arbiters of our own fortunes; may yet be felt in the counsels of America; may yet help to command a national policy which we approve, or at least to bear unharmed a national policy which we condemn? Must we pale and fade and be dissolved in the superior rays of the great constellation, or yet "flame in the forehead of the morning sky" with something of the brightness of our rising?

I take it for granted in all such speculations, in all such moods as this, that we are to remain in the Federal Union. With our sisters of the Republic we would live — we would die —

> "One hope, one lot, one life, one glory."

I agree, too, that whatever we may do for Massachusetts, the influence of national politics upon our local prosperity must always be inappreciably great for evil or for good.

It is of individuals, not States, that Goldsmith exclaims,

> "How small, of all that human hearts endure,
> That part which kings or laws can cause or cure!"

The joy and sorrow, the greatness and decline, of nations, are to a vast extent the precise work of kings or laws; and although in our system every State has its own government and its own civil polity, to which important functions are assigned, yet when you consider that it is to the great central power that war, peace, diplomacy, finance, our whole intercourse with the world, trade, as far as winds blow or waters

roll, the trust of our glory, the protection of our labor, are confided, — nobody can indulge the dream that a State may remain in the Union at all, and yet be insensible of the good and evil, the wisdom or the folly, the honor and the shame, of its successive administrations.

And yet I think that the statesmen of Massachusetts may well ask themselves, whether there are no expedients of empire or imperial arts worthy her, — worthy them, — by which they may enable her either to retain consideration and lead in the general government, to be conspicuous and influence an American opinion, by which they may enable her either to extort what she calls good policy, — or else to break the force of what she calls occasional bad policy, which she cannot hinder and to which she must submit.

Passing over all other expedients as unsuitable to the character and relations of this assembly, is it not worth while to consider this matter, for example, — whether a higher degree of general mental culture, a more thorough exercising and accomplishing of the whole mass of our popular and higher mind, more knowledge, a wider diffusion of knowledge, loftier attainments in useful and in graceful knowledge than we have ever reached, or that any State has reached, might not help us to meet the enlarging demand of time, and the successive crises of the commonwealth? Is it certain that in our speculations on the causes of the grandeur and decay, of the wealth and the poverty, the importance and the insignificance, of States, we have given quite as high a place as it deserves to the intellect of the State? Have we not thought too much of capacious harbors or teeming inland, navigable rivers, fleets of merchant ships and men-of-war, fields of wheat, plantations of cotton and rice and sugar, too much of tariffs and drawbacks and banks, and too little, too little, of that soul, by which only, the nation shall be great and free? In our speculations on knowledge and the bettering of the mind, is it right or is it wise to treat them as useful or as ornamental individual accomplishments alone, and not sometimes also to think of them as mines of national riches wealthier than Ormus or Ind, as perennial and salient springs of national power, as foundations, laid far below earthquake or frost, of a towering and durable public greatness? After all, this is the thought I would

present to you,—is there a surer way of achieving the boast of Themistocles, that he knew how to make a small State a great one, than by making it wise, bright, knowing, apprehensive, quick-witted, ingenious, thoughtful; by communicating to the whole mass of its people the highest degree of the most improved kind of education in its largest sense, which is compatible with the system of practical things; by beginning at the cradle, by touching the infant lip with fire from heaven; by perfecting the methods of the free schools, and of all schools, so that the universal understanding shall be opened, kindled, guided at its very birth, and set forward, without the loss of a day, on the true path of intellectual life; by taking care that all the food of which the soul of the people eats shall be wholesome and nutritious, — that the books and papers which they read, the sermons and speeches which they hear, shall possess at least a predominance of truth, fact, honesty, of right and high thought, just and graceful feeling; by providing institutions to guide the mature mind to the heights of knowledge; by collections of art and taste that shall unfold and instruct the love of beauty; by planting betimes the gardens of a divine philosophy, and spreading out the pavilion of the Muses?

Let us think a little of mental culture as the true local policy of Massachusetts.

I do not propose to repeat anything quite so general and elementary, as that easy commonplace which my Lord Bacon has illustrated so fondly and so gorgeously, that learned States have been usually prosperous States, that the eras of lettered glory have been eras of martial and civil glory too, that an instructed people has been for the most part a rich, laborious, energetic, and powerful people. The historical fact is undoubtedly as he records it; and it is as encouraging as it is true. I wish to unfold the operations and uses of learning and culture in a little more detail, and with a more confined and local reference to the case before us. Mental culture, as the true local policy of Massachusetts, I have said, is the topic to which I am restricted.

Let me say, however, in the first place, generally, that mental culture should contribute to our power and our consideration, by communicating or by developing those traits of char-

acter that lie at the foundation of all splendid and remarkable national distinction. All the greatness which is recorded in the histories or the epics of all the great States of the earth, all the long series of their virtues, all their compass of policy, all their successful contention with nature or with man, all their great works well performed, all their great dangers bravely met, all the great perils which harass them resisted and scattered, all their industrial renown, their agriculture, their trade, their art, their science, their libraries, their architecture, all their contributions to thought, to humanity, to progress, all the charm that attaches to their living name and that lingers on the capacious tomb into which at last they go down, — all this you trace at length to a few energetic qualities of mind and character. It does not spring from any fortuitous concurrence of any quantity of mere material atoms; it is not the growth of any number of hundred years of rain and sunshine falling upon the surface of the earth; it is not a spontaneous or necessary development and manifestation according to some mechanical and organic laws; — it is a production of the human mind; it is a creation of the human will; it is just the nobler and larger parts of man, in their most appropriate and grandest exemplifications. All of it rests at last on enterprise, energy, curiosity, perseverance, fancy, talent, — loftily directed, heroically directed. A few simple, commanding traits, a dignified aim, a high conception of the true glory of a State, — with a little land and water to work with, — and you have a great nation. I approve, therefore, of these expressions: the Roman mind, the Grecian mind, the Oriental mind, the European mind. There is true philosophy and an accurate history in them. They penetrate to the true criteria which distinguish races, — the mental criteria. It is not her "plumed and jewelled turban," her tea-plant and her cinnamon-plant, her caves, temples, and groves of palms, her exhaustless fertility of soils, her accumulations of imperial treasures, — "barbaric pearl and gold," as in a dream of the Arabian Nights, — by which I recognize the primeval East; it is that universal childhood of reason, — not a day older than in the age of Sardanapalus or of Ninus, — that subjugated popular character bowed to the earth beneath the superincumbent despotism of ages, that levity and vanity and effemi-

nacy of the privileged few, the elaborate luxury in which their lives are steeped, their poetry of the fancy, their long contemplations on nature and divinity, on which the whole intellect of the East might brood for six thousand years and not bring away as much truth as is taught in six months to the oldest boys and girls in our high schools — these are the true characteristics of Asia; these it is which solve all the facts of her history; these it is which, put into action, are her history itself. And then passing westward to Athens, — to Attica, — is it her area, not quite so large, not half as fertile, as our own Rhode Island, her mountain steeps sprinkled with dwarf oaks and fir trees, her sun-burnt valleys covered with meagre herbage, her wintry torrents dried up in summer, her olive trees with their pale leaf and pliable branches — is it these things which seem to you to have made up the grace of Greece, or was it that flexible, brave, and energetic character, so prompt and full of resource, that curiosity and perseverance and fire, that love of Athens and of glory, that subtilty of practical understanding, that unrivalled elegance of taste, that teeming and beautiful fancy, — were not these the traits, and these the gifts which created the Athens of the world and of all ages, — the one and only Athens; which are embodied for us in the Iliad and in the Œdipus and in the Parthenon, in the treatises of Aristotle, the dialogues of Plato, the orations of Demosthenes, — that eloquence of an expiring nation; which stand out on the sculptured page of Plutarch in the port of a hundred demi-gods; which created her to be a teacher of patriotism and a light to liberty; which won for her in her own time the place of the first power of the world, and seated her with a more rare felicity on an intellectual throne, from which no progress of the species may cast her down?

Now, if the nations differ by their minds, the right kind and the right degree of mental culture goes to the very springs of the national nature. It applies itself directly to the *causa causans*. It imparts and it shapes that basis of qualities, good or bad, large or little, stone or wood, or hay or stubble, — on which the State ascends to its duration of a day, or its duration of ages.

I do not say that mental culture alone can completely educate a nation, — far from it. There must be action. There must be

labor. There must be difficulty. There must be the baptism of blood and of fire. If there is a not very fertile soil under foot, a not very spicy air around, a not very luxurious heaven overhead,—it is all the better.

Nor is it every kind and every degree of mental culture that will do this work. It must be such culture as may be given to an employed, a grave, an earnest, a moral, and a free people. It must be a culture of the reason and of the heart. It must not be a culture like that which consoled the Paris of Louis XIV., which consoles the Rome, the Florence, and the Venice of our time for the loss, for the want, of liberty. It must not be a culture which supplies trifles to the eye, stimulations to the senses, shows to the fancy, the music of a holiday to the ear. It must not be a culture which turns mortal life, that solemn and that grand reality and waking, into a fine dream, — and presents death, not as an interruption of profound attachments, earnest labors, and serious aims,—but as a drooping of the garlands of a feast from which the guests have departed. It must be a very different kind of mental culture from this. It must be one which shall be so directed as to give force, power, depth, effectiveness, to the intellect of the whole people. It must be one which, beginning with the youngest child, shall seek to improve the heart of the people, shall propose to the infant and to the adolescent will and sensibilities, great examples, as well as wholesome counsel,—the careers of nations and of men — pure, rapid, and majestic, as rivers — grand, swelling sentiments of liberty, patriotism, duty, and honor, — triumphant, awful, splendid deaths,— the Puritan at the stake, the patriot on the scaffold, those who fell at Thermopylæ in obedience to the law, those who were buried at Plymouth in the first, awful winter. Such a culture as this it is, which, blending with the other discipline of public and private life, may prove the mother and nurse of a great, thoughtful, and free people. "Remember that the learning of the few is despotism; the learning of the multitude is liberty; — and that intelligent and principled liberty is fame, wisdom, and power."

In the next place, to come down to a little more detail, mental culture may contribute to our security, our independence, our local aggrandizement, by informing and directing our labor.

I need not tell you that labor is the condition — I will not say, of our greatness, but — of our being. What were Massachusetts without it? Lying away up under the North star, — our winters long and cold, our springs backward and capricious, our sky ungenial, our coast iron-bound, — our soil not over-productive, barren almost altogether of the great staples of commerce which adorn and enrich the wheat fields of the central regions, the ocean prairies of the West, the rice grounds and sugar and cotton plantations of the South, — our area small, — our numbers few, — our earlier occupations of navigation and fishing divided with us by a whole world at peace, — what is there for us but labor, — *labor improbus, labor omnia vincens?* And what kind of labor is it which is to vanquish the antagonist powers of nature, and build the palace of a commodious and conspicuous national life over against these granite mountains and this unfruitful sea? Is it one kind, or two; or is it the whole vast and various labor of intellectual civilization, — not agriculture only and trade and fishing, but the whole family of robust and manly arts, which furnish occupation to everybody every moment of working time, — occupation, to every taste and talent and faculty, that which it likes best, that which improves it most, that which it can do easiest, — occupation for the strong and the weak, the bright and the dull, the young and the old, and both the sexes, — occupation for winter and summer, daylight and lamplight, cold weather and warm, wet and dry, — occupation that shall, with more than magnetic touch, seize on, develop, discipline, and perfect every capacity, the whole mass of ability, gathering up all fragments of mind and of time, so that nothing be lost — is not this the labor by which we are to grow great? Is not this the labor which is to be to us in the place of mines, of pearls, of vineyards, of cinnamon gardens, of enamelled prairies, of wheat-fields, of rice-grounds and cotton-fields and sugar-plantations tilled by the hands of slaves? This is that transmuting power without which we are poor, give what they will — with it rich, take what they will away! This it is, labor, ever labor, which, on the land, on the sea, in the fields, in all its applications, with all its helps, from the straw bonnet braided or plaited by the fingers, up to those vast processes in which, evoking to its aid the powers of nature and the contrivances of ages of skill, it takes the shapeless ore

from its bed, the fleece from the felt, the cotton from the pod, and moulds them into shapes of beauty and use and taste, — the clothing, the armor, the furniture of civilization, sought for in all the markets of the world — this it is which is to enrich and decorate this unlovely nature where our lot is cast, and fit it for the home of cultivated man!

Now, if the highest practicable degree of mental culture and useful knowledge is really the best instrumentality for instructing, guiding, vivifying, helping this rough power of labor, — if it will supply the chemistry which teaches it how to enrich barren soils, reclaim and spare exhausted soils, irrigate parched soils, make two blades of grass grow where one grew before, — if it will teach it how to build tunnels through mountains or beneath beds of rivers and under populous towns, how to fill or bridge the valley, how to stretch out and fasten in their places those long lines of iron roads which, as mighty rivers, pour the whole vast inland into a market of exchange for what trade has gathered from every quarter of the globe, — if it will teach it better how to plan its voyages and make its purchases, so as most seasonably to meet the various and sudden and changing demands of men by the adequate supply, — if it can teach it how to construct its tools, how to improve old ones and invent new, how to use them, by what shortest and simplest and cheapest process it can arrive at the largest results of production, — if it can thus instruct and thus aid that labor, which is our only source of wealth, and of all material greatness, — if, above all, when rightly guided by the morality and religion which I assume everywhere to preside over our education, it communicates that moral and prudential character which is as needful and as available for thrift as for virtue, thoughtfulness, economy, self-estimation, sobriety, respect for others' rights, — is it not an obvious local and industrial policy to promote, diffuse, and perfect it?

Well, I must not spend a moment in the proof of a proposition so palpable as this. I say there is not an occupation of civilized life, from the making of laws and poems and histories, down to the opening of New Jersey oysters with a broken jack-knife, that is not better done by a bright than a dull man, by a quick than a slow mind, by an instructed man than a gross or simple man, by a prudent, thoughtful, and careful

man, than by a light and foolish one. Every one of these occupations — in other words, the universal labor of civilization — involves, demands, *is*, a mental effort, putting forth a physical effort; and you do but only go to the fountain-head, as you ought to do, when you seek, by an improved culture and a better knowledge, to give force and power to the imperial capacity behind, and to set a thoughtful and prudent spirit to urge and to guide it. You say that you bestow a new power on man, when you give him an improved machine. Do you not bestow a more available gift, when you bestow on him an improvement of that mental and moral nature which makes, improves, and uses, profitably or unprofitably, all machines? In one case you give him a limited and definite amount of coined money, in the other a mine of gold or silver. Nay, what avails the improved machine to the untaught mind? Put a forty-feet telescope, with its mirrors of four feet diameter, into the hands of a savage, whether in civilized or Indian life, and he sees about as much as our children see through a glass prism, —gaudy outlines, purple and orange and green crossing and blending on everything. Let the exercised mind of Herschel lift that same tube from the Cape of Hope toward the southern sky, and the architecture of the heavens — not made with hands — ascends before him,—

> "Glory beyond all glory ever seen
> By waking sense, or by the dreaming soul!"

firmaments of fixed stars,—of which all the stars in our heaven, all our eye takes in, form but one firmament, one constellation only of a universe of constellations, separated by unsounded abysses, yet holden together by invisible bands, — moving together, perhaps, about some centre, to which the emancipated soul may in some stage of being ascend, but which earthly science shall vanish away without seeing!

Such in kind, not of course in degree, is the additional power you give to labor by improving the intellectual and prudential character which informs and guides it.

It is within the knowledge of you all that Mr. Mann, in one of those reports to the Board of Education to which the community is so much indebted, I believe the fifth, has devel-

oped this thought with that keenness of analysis and clearness and force of expression for which he is remarkable. You will be particularly struck with the proofs which he has there collected from several most intelligent and respectable superintendents or proprietors of manufacturing establishments, showing by precise statistical details, derived from a long course of personal observation, that throughout the whole range of mechanical industry the well educated operative does more work, does it better, wastes less, uses his allotted portion of machinery to more advantage and more profit, earns more money, commands more confidence, rises faster, rises higher, from the lower to the more advanced positions of his employments, than the uneducated operative. And now, how interestingly and directly this fact connects itself with my subject, I need not pause to show. You speak of tariffs to protect your industry from the redundant capital, the pauper labor, the matured skill, the aggressive and fitful policy, of other nations. You cannot lay a tariff under the Constitution, and you cannot compel Congress to do so; but you can try to rear a class of working-men who may help you to do something without one. You speak of specific duties, and discriminating duties, and what not! Are you sure that if everybody, — *every mind*, I should say, — which turns a wheel or makes a pin in this great workshop of ours, all full from basement to attic with the various hum of free labor, was educated up to the utmost degree compatible with his place in life, — that this alone would not be equal to at least a uniform duty of about twenty-eight per cent. ad valorem, all on the home value? You must have more skill you say, more skill than now, or you must have governmental protection. Very well; go to work to make it, then. You manufacture almost everything. Suppose you go into the manufacture of skill. Try your hand at the skill business. Skill in the arts is mental power exercised in arts, that is all. Begin by making mental power. You can do that as easily as you can make satinets or fustian or chain-cable. You have a great deal of money. The world never saw such a provision for popular and higher education as you could make in a year in Massachusetts, and not feel it. Consider how true and fine in this application would the words of the charitable man's epi-

taph be: "What I spent I had. What I kept I lost. What I gave away remains with me!"

By what precise course of instruction, elementary and advanced, by what happier methods, by what easier access to the mind and heart, by "what drugs, what charms, what conjuration, and what mighty magic," this heightened mental ability and accomplishment may be achieved, which I know is practicable, and which I know is power, — it is not within my plan, if I could, to suggest. I may be permitted to remember, that the first time I ever ventured to open my lips in a deliberative body, I had the honor to support a bill in the House of Representatives, in Massachusetts, providing for educating teachers of common schools. I should be perfectly willing to open them for the last time, in the same place in support of the same proposition exactly. I can conceive of a body of teachers, — I know individuals now, — who would do this great work for Massachusetts, as patriotism and religion would wish it done, — who would take the infant capacity of the people, as it came to life, into their arms, and breathe into it the quickening breath, — who receiving it, bathed and blessed by a mother's love, would apply to it, instead of stripes, the gentle, irresistible magnet of scientific instruction, opening it as a flower to light and rain, — who, when the intellectual appetite was begun to be developed, would feed it with the angels' food of the best mental and moral culture which years of reflection and experience and interchange of thought could suggest, — would carry forward the heart, and the reason together, — would fit the whole bright tribe of childhood as completely, in so far as intellect and acquisition are concerned, for beginning to wrestle with the practical realities of life at fourteen, as now at one-and-twenty.

To such teachers I leave details, with one suggestion only, — that I would not take the Bible from the schools so long as a particle of Plymouth Rock was left, large enough to make a gun-flint of, or as long as its dust floated in the air. I would have it read not only for its authoritative revelations, and its commands and exactions, obligatory yesterday, to-day, and forever, but for its English, for its literature, for its pathos, for its dim imagery, its sayings of consolation and wisdom and

universal truth, — achieving how much more than the effect which Milton ascribes to music:

> "Nor wanting power to mitigate and swage,
> With solemn touches, troubled thoughts, and chase
> Anguish and doubt and fear and sorrow and pain
> From mortal, or immortal minds."

Perhaps as striking an illustration on a large scale as could be desired, of the connection between the best directed and most skilful labor and the most cultivated and most powerful intellect, is afforded by the case of England. British industry, as a whole, is among the most splendid and extraordinary things in the history of man. When you consider how small a work-bench it has to occupy altogether, — a little stormy island bathed in almost perpetual fogs, without silk, or cotton, or vineyards, or sunshine; and then look at that agriculture so scientific and so rewarded, that vast net-work of internal intercommunication, the docks, merchant-ships, men-of-war, the trade encompassing the globe, the flag on which the sun never sets, — when you look above all at that vast body of useful and manly art, — not directed like the industry of France — the industry of vanity — to making pier-glasses and air-balloons and gobelin tapestry and mirrors, to arranging processions and chiselling silver and twisting gold into filagrees, — but to clothing the people, to the manufacture of woollen, cotton, and linen cloth, of railroads and chain-cables and canals and anchors and achromatic telescopes, and chronometers to keep the time at sea, — when you think of the vast aggregate mass of their manufacturing and mechanical production, which no statistics can express, and to find a market for which she is planting colonies under every constellation, and by intimidation, by diplomacy, is knocking at the door of every market-house upon the earth, — it is really difficult to restrain our admiration of such a display of energy, labor, and genius, winning bloodless and innocent triumphs everywhere, giving to the age we live in the name of the age of the industry of the people. Now, the striking and the instructive fact is, that exactly in that island workshop, by this very race of artisans, of coal-heavers and woollen manufacturers, of machinists and blacksmiths and ship-carpenters, there has been produced and embodied forever, in words that will outlast the mountains as

well as the Pyramids, a literature which, take it for all in all, is the richest, most profound, most instructive, combining more spirituality with more common sense, springing from more capacious souls, conveying a better wisdom, more conformable to the truth in man, in nature, and in human life, than the literature of any nation that ever existed. That same race, side by side with the unparalleled growth of its industry, produces Shakspeare, Milton, Bacon, and Newton, all four at the summit of human thought, — and then, just below these unapproachable fixed lights, a whole firmament of glories, lesser than they, as all created intelligence must be, yet in whose superior rays the age of Augustus, of Leo X., of Louis XIV., all but the age of Pericles, the culture of Greece, pale and fade. And yet the literature of England is not the only, scarcely the most splendid, fruit or form of the mental power and the energetic character of England. That same race, along with their industry, along with their literature, has built up a jurisprudence which is for substance our law to-day, — has constructed the largest mercantile and war navy, and the largest commercial empire with its pillars encircling the globe, that men ever saw, — has gained greater victories on sea and land than any power in the world, — has erected the smallest spot to the most imperial ascendancy recorded in history. The administrative triumphs of her intellect are as conspicuous as her imaginative and her speculative triumphs.

Such is mental power. Mark its union with labor and with all greatness; deduce the law; learn the lesson; see how you, too, may grow great. Such an industry as that of England demanded such an intellect as that of England. *Sic vobis etiam itur ad astra!* That way to you, also, glory lies!

I have now been speaking of a way in which mental culture may help your labor to grow independent of governmental policy, and thus to disregard and endure what you cannot control. But may not the same great agent do more than this? May it not, not merely enable you to bear an administrative policy which you cannot prevent, but enable you to return the more grateful power of influencing national councils and na-

tional policy, long after the numerical control has gone to dwell in the imperial valley of the West?

I will not pause to say so obvious a thing, as that those you call public men, those whom you send to urge your claims and consult your interests in the national assembly, are better fitted for their task by profound and liberal studies. This were too obvious a thought; and yet, I cannot help holding up to your notice a very splendid exemplification of this, in that "old man eloquent," who counts himself to have risen from the Presidency to represent the people in the House of Representatives. See there what the most universal acquisitions will do for the most powerful talents. How those vast accumulations of learning are fused, moulded, and projected, by the fiery tide of mind! How that capacious memory, realizing half the marvels of Pascal and of Cicero, yields up in a moment the hived wisdom of a life of study and a life of action, — the happiest word, the aptest literary illustration, the exact detail, the precise rhetorical instrument the case demands, — how it yields all up instantly to the stimulated, fervid, unquenchable faculties! How little of dilettanteism and parade, and vagueness of phrase and mysticism of idea; how clear, available, practical, direct, — one immense torrent, rushing as an arrow, all the way from the perennial source to the hundred mouths!

If mental culture did nothing for you but send such men to consult on your welfare in the councils of the nation, it would do much to preserve your political ascendancy. But look at this matter a little more largely. Suppose that by succession of effort, by study, by time, you could really carry up the literary character of Massachusetts to as high a degree of superiority to the general literary character of these States, as that of Attica compared with the other States of Greece in the age after the Persian war; suppose the school-boy boast could be achieved, and you were the Athens of America; suppose the libraries, the schools, the teachers, the scholars, were here, the galleries of art, the subtle thinkers, the weavers of systems, the laurelled brow, "the vision and the faculty divine;" suppose the whole body of our written productions, from newspapers upwards or downwards, had obtained a recognized superiority over those of any other region, were purer, better

expressed, more artist-like, of wider compass; suppose that the general taste of the world and the nation should authenticate and settle all this,—would it or would it not profit you as an instrument of political ascendancy? It would be soothing to our pride, certainly. Perhaps that would not be all. Knowledge is power as well as fame. You could not, perhaps, hold the lettered and moral relation to America which I have sketched—it is, alas! a sketch—without holding a political relation in some degree of correspondence with it. Think of that subtle, all-embracing, plastic, mysterious, irresistible thing called public opinion, the god of this lower world, and consider what a State, or a cluster of States, of marked and acknowledged literary and intellectual lead might do to color and shape that opinion to their will. Consider how winged are words, how electrical, light-like the speed of thought, how awful human sympathy. Consider how soon a wise, a beautiful thought uttered here,—a sentiment of liberty perhaps, or word of succor to the oppressed, of exhortations to duty, to patriotism, to glory, the refutation of a sophism, the unfolding of a truth for which the nation may be better,—how soon a word fitly or wisely spoken here is read on the Upper Mississippi and beneath the orange-groves of Florida, all through the unequalled valley; how vast an audience it gains, into how many bosoms it has access, on how much good soil the seed may rest and spring to life, how easily and fast the fine spirit of truth and beauty goes all abroad upon the face of the world. Consider that the meditations of a single closet, the pamphlet of a single writer, have inflamed or composed nations and armies, shaken thrones, determined the policy of governments for years of war or peace. Consider that the Drapier's Letters of Swift set Ireland on fire, cancelled the patent of King William, inspired or kept breathing the spirit which in a later day the eloquence of Grattan evoked to national life. Burke's Reflections on the French Revolution began that great contention of nations that lasted a quarter of a century, till the sun went down on the drenched field of Waterloo. The sarcasms of Voltaire had torn away its grandeur from the throne, and its sacredness from the kindred church, or popular violence might not have blown them both into the air.

He who guides public opinion moves the hand that moves the world!

There is an influence which I would rather see Massachusetts exert on her sisters of this Union, than see her furnish a President every twelve years or command a majority on any division in Congress; and that is such an influence as Athens exerted on the taste and opinion first of Greece, then of Rome, then of the universal modern world; such as she will exert while the race of man exists. This, of all the kinds of empire, was most grateful and innocent and glorious and immortal. This was won by no bargain, by no fraud, by no war of the Peloponnesus, by the shedding of no human blood. It would rest on admiration of the beautiful, the good, the true in art, in poetry, in thought; and it would last while the emotions, its object, were left in a human soul. It would turn the eye of America hitherwards with love, gratitude, and tears, such as those with which we turn to the walk of Socrates beneath the plane-tree, now sere, the summer hour of Cicero, the prison into which philosophy descended to console the spirit of Boethius, that room through whose opened window came into the ear of Scott, as he died, the murmur of the gentle Tweed,—love, gratitude, and tears, such as we all yield to those whose immortal wisdom, whose divine verse, whose eloquence of heaven, whose scenes of many-colored life, have held up the show of things to the insatiate desires of the mind, have taught us how to live and how to die! Herein were power, herein were influence, herein were security. Even in the madness of civil war it might survive for refuge and defence!

> Lift not thy spear against the Muse's bower.
> The great Emathian conqueror bid spare
> The house of Pindarus, when temple and tower
> Went to the ground. And the repeated air
> Of sad Electra's poet had the power
> To save the Athenian walls from ruin bare.

And now if any one, any child of Massachusetts, looking round him and forward, trying to cast the horoscope of his local fortunes, feels a sentiment of despondency upon his spirit, and thinks all this exhortation to mental culture as a

means of retaining endangered or receding power to be but the dream of pedantry, and begins to think that if he would belong to a great State, an historical State, an ascendant State, he must be setting out toward the tranquil sea, — to him I say, turn back to her origin, and be of thy unfilial fears ashamed! Thou, a descendant of that ancestry of heroes, and already only in the two hundredth year, afraid that the State is dying out! Do you forget that it took two hundred years of training in England, in Scotland, in Geneva, in the Netherlands, — two hundred years of persecution, of life passed in exile and in chains, of death triumphing over fires, — to form out of the general mind of England these one hundred men and women, our fathers and mothers, who landed on the Rock, and do you think a plant so long in rearing has begun already to decay?

It took a hundred and fifty years more, — one long war, one long labor, one long trial, one long sorrow, as we count sorrow, years of want and disease, of bereavements, of battle of thought, of every heroical faculty tasked by every heroical labor, one long, varied, searching, tremendous educational process, just the process to evolve and mature these traits on which a commonwealth might repose for a thousand years of glory, — it took all this more to train them for the loftier sphere, the grander duties, the more imperial and historical renown, of independence and union; and do you think that the energies of such a nature, so tempered and refined, are become exhausted in half a century? Who believes in such an idle expenditure of preparation? Why, that would be to hew out a throne of granite on the side of everlasting hills by the labor of generations, for one old king, the last of his line, to die on! No; be true to your origin and to yourselves, and dynasties shall fill by successive accessions the prepared and steadfast seat.

Doubtless the Pilgrim race, — the Puritan race, — shall go everywhere, and possess largely of everything. The free North-west, especially, will be theirs; the skies of Ontario and Erie and Michigan, the prairies of Illinois, the banks of the river of beauty, the mines of Wisconsin and Iowa, shall be theirs. But the old homestead, and the custody of the

Rock, are in the family also. Nearest of all the children to the scenes of the fathers' earthly life, be it ours the longest and the most fondly to bear their names, and hold fast their virtues. Be it ours, especially, to purify, enrich, adorn this State, — our own, our native land, — our fathers' monument, — our fathers' praise!

THE POSITION AND FUNCTIONS OF THE AMERICAN BAR, AS AN ELEMENT OF CONSERVATISM IN THE STATE:

AN ADDRESS DELIVERED BEFORE THE LAW SCHOOL IN CAMBRIDGE, JULY 3, 1845.

THE speaker, on one of the anniversaries observed by a literary association in this ancient university, congratulated himself, as he cast his eye over an audience of taste and learning, that in such company he could have no temptation to stray beyond the walls of the academy, or within the noise of the city and the forum. I have supposed that our way, on the contrary, lies directly into the city and the forum. I have assumed that in calling me to this duty you expected and designed that I should consider some topic of a strictly professional interest. All the objects and proprieties of the hour require me to do so. It is a seminary of the law, to which the day is set apart. It is to students of the law, assembled in the presence of teachers of the law, — your masters and my own, — and composing with them a school worthy to begin a new era of the enriched and various jurisprudence of America, — it is to the members of a profession, that I address myself, — all of you immersed in its intricate studies, and fired by what Milton has called its "prudent and heavenly contemplations." Some of you just going forth to attempt its practice, to do its hard work, to kindle with its excitations, to be agitated by its responsibilities, to sound its depths and shoals of honor, — and it is therefore of things professional that I seem to be commanded to speak. Doubtless, there is somewhat in the spirit of the place that might suggest the wish at least for matter more "airy and delicious." I will not deny that I never visit these scenes, so dear to learn-

ing, without a very vehement impulse to be disengaged for the day from all the idle business of the law and of life, — from litigious terms, fast contentions, and the dream of "flowing fees," — from facts sometimes without interest, and rules sometimes without sense, — to be disengaged from all this, and to abandon myself evermore to the vernal fancies and sensations of your time of life, to the various banquet of general knowledge on which so many spirits have been fed, to all those fair ideals which once had power to touch and fill the heart. The sentiment is not very professional; and yet it is not wholly uncountenanced by authority. You remember that it was the great Chancellor d'Aguesseau, who, full of fame as of years, at the very summit of the jurisprudence of France, the most learned of her orators, the most eloquent of her lawyers, — in the confidence of a letter to his son, could confess that literature had always been to him a sort of mental debauch into which he perpetually and secretly relapsed. "I was born," he said, "in the republic of elegant letters; there I grew to be a man; there I passed the happiest years of my life; and to it I come back as a wanderer on sea revisits his native land." But these were the confessions of an illustrious reputation, which could afford to make them. Win his fame, attain his years, emulate his polished eloquence, do as much for the law of a free country as he did for that of the despotism of Louis XIV. and the regency, and you may make the same confession too. Meantime, even here and to-day our theme, our aim, is the law. The literary influences and solicitations of the scene and hour we resist and expel. We put them, one and all, out of court. *Academiam istam exoremus ut sileat!*

There are reasons without number why we should love and honor our noble profession, and should be grateful for the necessity or felicity or accident which called us to its service.

But of these there is one, I think, which, rightly apprehended, ought to be uppermost in every lawyer's mind, on which he cannot dwell too thoughtfully and too anxiously; to which he should resort always to expand and erect his spirit and to keep himself up, if I may say so, to the height of his calling; from which he has a right to derive, in every moment of weariness or distaste or despondency, — not an occasion of

pride, but, — ceaseless admonitions to duty and incentives to hope. And that reason is, that better than any other, or as well as any other position or business in the whole subordination of life, his profession enables him to *serve the State*. As well as any other, better than any other profession or business or sphere, more directly, more palpably, it enables and commands him to perform certain grand and difficult and indispensable duties of patriotism, — certain grand, difficult and indispensable duties to our endeared and common native land.

Turning for the present then, from other aspects of the profession, survey it under this. Certainly it presents no nobler aspect. It presents none so well adapted — I do not say, to make us vain of it, but — to make us fit for it, to make us equal to it, to put us on turning it to its utmost account, and working out its whole vast and various and highest utilities. It raises it from a mere calling by which bread, fame, and social place may be earned, to a function by which the republic may be served. It raises it from a dexterous art and a subtle and flexible science, — from a cunning logic, a gilded rhetoric, and an ambitious learning, wearing the purple robe of the sophists, and letting itself to hire, — to the dignity of almost a department of government, — an instrumentality of the State for the well-being and conservation of the State. Consider then the position and functions of the American Bar in the Commonwealth.

I make haste to say that it is not at all because the legal profession may be thought to be peculiarly adapted to fit a man for what is technically called "public life," and to afford him a ready, too ready an introduction to it, — it is not on any such reason as this that I shall attempt to maintain the sentiment which I have advanced. It is not by enabling its members to leave it and become the members of a distinct profession, — it is not thus that in the view which I could wish to exhibit, it serves the State. It is not the jurist turned statesman whom I mean to hold up to you as useful to the republic, — although jurists turned statesmen have illustrated every page, every year of our annals, and have taught how admirably the school of the law can train the mind and heart for the service of constitutional liberty and the achievement of civil honor. It is not the jurist turned statesman;

it is the jurist as jurist; it is the jurist remaining jurist; it is the bench, the magistracy, the bar, — the profession as a profession, and in its professional character, — a class, a body, of which I mean exclusively to speak; and my position is, that as such it holds, or may aspire to hold, a place, and performs a function of peculiar and vast usefulness in the American Commonwealth.

Let me premise, too, that instead of diffusing myself in a display of all the modes by which the profession of the law may claim to serve the State, I shall consider but a single one, and that is its agency as an element of conservation. The position and functions of the American Bar, then, as an element of conservation in the State, — this precisely and singly is the topic to which I invite your attention.

And is not the profession such an element of conservation? Is not this its characteristical office and its appropriate praise? Is it not so that in its nature, in its functions, in the intellectual and practical habits which it forms, in the opinions to which it conducts, in all its tendencies and influences of speculation and action, it is and ought to be professionally and peculiarly such an element and such an agent, — that it contributes, or ought to be held to contribute, more than all things else, or as much as anything else, to preserve our organic forms, our civil and social order, our public and private justice, our constitutions of government, — even the Union itself? In these crises through which our liberty is to pass, may not, must not, this function of conservatism become more and more developed, and more and more operative? May it not one day be written, for the praise of the American Bar, that it helped to keep the true idea of the State alive and germinant in the American mind; that it helped to keep alive the sacred sentiments of obedience and reverence and justice, of the supremacy of the calm and grand reason of the law over the fitful will of the individual and the crowd; that it helped to withstand the pernicious sophism that the successive generations, as they come to life, are but as so many successive flights of summer flies, without relations to the past or duties to the future, and taught instead that all — all the dead, the living, the unborn — were one moral person, — one for action, one for suffering, one for responsibility,

— that the engagements of one age may bind the conscience of another; the glory or the shame of a day may brighten or stain the current of a thousand years of continuous national being? Consider the profession of the law, then, as an element of conservation in the American State. I think it is naturally such, so to speak; but I am sure it is our duty to make and to keep it such.

It may be said, I think with some truth, of the profession of the Bar, that in all political systems and in all times it has seemed to possess a twofold nature; that it has seemed to be fired by the spirit of liberty, and yet to hold fast the sentiments of order and reverence, and the duty of subordination; that it has resisted despotism and yet taught obedience; that it has recognized and vindicated the rights of man, and yet has reckoned it always among the most sacred and most precious of those rights, to be shielded and led by the divine nature and immortal reason of law; that it appreciates social progression and contributes to it, and ranks in the classes and with the agents of progression, yet evermore counsels and courts permanence and conservatism and rest; that it loves light better than darkness, and yet like the eccentric or wise man in the old historian, has a habit of looking away as the night wanes to the western sky, to detect there the first streaks of returning dawn.

I know that this is high praise of the professional character; and it is true. See if there is not some truth in it. See at least whether we may not deserve it, by a careful culture of the intrinsical tendencies of our habitual studies and employments, and all that is peculiar to our professional life.

It is certain, on the one hand, that the sympathies of the lawyer in our system are with the people and with liberty. They are with the greatest number of the people; they are with what you call the masses; he springs from them; they are his patrons; their favor gives him bread; it gives him consideration; it raises him, as Curran so gracefully said of himself, "the child of a peasant to the table of his prince." The prosperity of the people employs and enriches him.

It does not fall within my immediate object to dwell longer on this aspect of the twofold nature of the profession of the Bar, — its tendencies and leanings to the people and to lib-

erty. It might not be uninstructive to sustain and qualify the view by a glance at a few remarkable periods of its history, under a few widely discriminated political systems of ancient States and times, — the Roman Bar, for example, before and under the earliest times of the Empire; the French Bar at the Revolution; the American Bar from the planting of the colonies. But I must hasten to my principal purpose in this address, — an exhibition of the other aspect of the profession, its function of conservatism.

In proceeding to this, I think I may take for granted that conservatism is, in the actual circumstances of this country, the one grand and comprehensive duty of a thoughtful patriotism. I speak in the general, of course, not pausing upon little or inevitable qualifications here and there, — not meaning anything so absurd as to say that this law, or that usage, or that judgment, or that custom or condition, might not be corrected or expunged, — not meaning still less to invade the domains of moral and philanthropic reform, true or false. I speak of our general political system; our organic forms; our written constitutions; the great body and the general administration of our jurisprudence; the general way in which liberty is blended with order, and the principle of progression with the securities of permanence; the relation of the States and the functions of the Union, — and I say of it in a mass, that conservation is the chief end, the largest duty, and the truest glory of American statesmanship.

There are nations, I make no question, whose history, condition, and dangers, call them to a different work. There are those whom everything in their history, condition, and dangers admonishes to reform fundamentally, if they would be saved. With them the whole political and social order is to be rearranged. The stern claim of labor is to be provided for. Its long antagonism with capital is to be reconciled. Property is all to be parcelled out in some nearer conformity to a parental law of nature. Conventional discriminations of precedence and right are to be swept away. Old forms from which the life is gone are to drop as leaves in autumn. Frowning towers nodding to their fall are to be taken down. Small freeholds must dot over and cut up imperial parks. A large infusion of liberty must be poured along these emptied

veins and throb in that great heart. With those, the past must be resigned; the present must be convulsed, that "an immeasurable future," as Carlyle has said, "may be filled with fruitfulness and a verdant shade."

But with us the age of this mode and this degree of reform is over; its work is done. The passage of the sea, the occupation and culture of a new world, the conquest of independence, — these were our eras, these our agency, of reform. In our jurisprudence of liberty, which guards our person from violence and our goods from plunder, and which forbids the whole power of the State itself to take the ewe lamb, or to trample on a blade of the grass of the humblest citizen without adequate remuneration; which makes every dwelling large enough to shelter a human life its owner's castle which winds and rain may enter but which the government cannot, — in our written constitutions, whereby the people, exercising an act of sublime self-restraint, have intended to put it out of their own power forever, to be passionate, tumultuous, unwise, unjust; whereby they have intended, by means of a system of representation; by means of the distribution of government into departments, independent, coördinate for checks and balances; by a double chamber of legislation; by the establishment of a fundamental and paramount organic law; by the organization of a judiciary whose function, whose loftiest function it is to test the legislation of the day by this standard for all time, — constitutions, whereby by all these means they have intended to secure a government of laws, not of men; of reason, not of will; of justice, not of fraud, — in that grand dogma of equality, — equality of right, of burthens, of duty, of privileges, and of chances, which is the very mystery of our social being — to the Jews, a stumbling block; to the Greeks, foolishness — our strength, our glory, — in that liberty which we value not solely because it is a natural right of man; not solely because it is a principle of individual energy and a guaranty of national renown; not at all because it attracts a procession and lights a bonfire, but because when blended with order, attended by law, tempered by virtue, graced by culture, it is a great practical good; because in her right hand are riches, and honor, and peace; because

she has come down from her golden and purple cloud to walk in brightness by the weary ploughman's side, and whisper in his ear as he casts the seed with tears, that the harvest which frost and mildew and canker-worm shall spare, the government shall spare also; in our distribution into separate and kindred States, not wholly independent, not quite identical, in "the wide arch of the ranged empire" above, — these are they in which the fruits of our age and our agency of reform are embodied; and these are they by which, if we are wise, — if we understand the things that belong to our peace, — they may be perpetuated. It is for this that I say the fields of reform, the aims of reform, the uses of reform here, therefore, are wholly unlike the fields, uses, and aims of reform elsewhere. Foreign examples, foreign counsel, — well or ill meant, — the advice of the first foreign understandings, the example of the wisest foreign nations, are worse than useless for us. Even the teachings of history are to be cautiously consulted, or the guide of human life will lead us astray. We need reform enough, Heaven knows; but it is the reformation of our individual selves, the bettering of our personal natures; it is a more intellectual industry; it is a more diffused, profound, and graceful, popular, and higher culture; it is a wider development of the love and discernment of the beautiful in form, in color, in speech, and in the soul of man, — this is what we need, — personal, moral, mental reform — not civil — not political! No, no! Government, substantially as it is; jurisprudence, substantially as it is; the general arrangements of liberty, substantially as they are; the Constitution and the Union, exactly as they are, — this is to be wise, according to the wisdom of America.

To the conservation, then, of this general order of things, I think the profession of the Bar may be said to be assigned, for this reason, among others — the only one which I shall seek to develop — that its studies and employments tend to form in it and fit it to diffuse and impress on the popular mind a class of opinions — one class of opinions — which are indispensable to conservation. Its studies and offices train and arm it to counteract exactly that specific system of opinions by which our liberty must die, and to diffuse and impress those by which it may be kept alive.

By what means a State with just that quantity of liberty in its constitution which belongs to the States of America, with just those organizations into which our polity is moulded, with just those proportions of the elements of law and order and restraint on the one hand, and the passionate love of freedom, and quick and high sense of personal independence on the other, — by what means such a State may be preserved through a full life-time of enjoyment and glory, what kind of death it shall die, by what diagnostics the approach of that death may be known, by what conjuration it is for a space to be charmed away, through what succession of decay and decadence it shall at length go down to the tomb of the nations, — these questions are the largest, pertaining to the things of this world, that can be pondered by the mind of man. More than all others, too, they confound the wisdom of man. But some things we know. A nation, a national existence, a national history, is nothing but a production, nothing but an exponent, of a national mind. At the foundation of all splendid and remarkable national distinction there lie at last a few simple and energetic traits: a proud heart, a resolute will, sagacious thoughts, reverence, veneration, the ancient prudence, sound maxims, true wisdom; and so the dying of a nation begins in the heart. There are sentiments concerning the true idea of the State, concerning law, concerning liberty, concerning justice, so active, so mortal, that if they pervade and taint the general mind, and transpire in practical politics, the commonwealth is lost already. It was of these that the democracies of Greece, one after another, miserably died. It was not so much the spear of the great Emathian conqueror which bore the beaming forehead of Athens to the dust, as it was that diseased, universal opinion, those tumultuous and fraudulent practical politics, which came at last to supersede the constitution of Solon, and the equivalents of Pericles, which dethroned the reason of the State, shattered and dissolved its checks, balances, and securities against haste and wrong, annulled its laws, repudiated its obligations, shamed away its justice, and set up instead, for rule, the passion, ferocity, and caprice, and cupidity, and fraud of a flushed majority, cheated and guided by sycophants and demagogues, — it was this diseased public opinion and these politics, its

fruits, more deadly than the gold or the phalanx of Philip, that cast her down untimely from her throne on high.

And now, what are these sentiments and opinions from which the public mind of America is in danger, and which the studies and offices of our profession have fitted us and impose on us the duty to encounter and correct?

In the first place, it has been supposed that there might be detected, not yet in the general mind, but in what may grow to be the general mind, a singularly inadequate idea of the State as an unchangeable, indestructible, and, speaking after the manner of men, an immortal thing. I do not refer at this moment exclusively to the temper in which the Federal Union is regarded, though that is a startling illustration of the more general and deeper sentiment, but I refer in a larger view to what some have thought the popular or common idea of the civil State itself, its sacredness, its permanence, its ends,—in the lofty phrase of Cicero, its eternity. The tendency appears to be, to regard the whole concern as an association altogether at will, and at the will of everybody. Its boundary lines, its constituent numbers, its physical, social, and constitutional identity, its polity, its law, its continuance for ages, its dissolution,—all these seem to be held in the nature of so many open questions. Whether *our country*—words so simple, so expressive, so sacred; which, like father, child, wife, should present an image familiar, endeared, definite to the heart—whether our country shall, in the course of the next six months extend to the Pacific Ocean and the Gulf, or be confined to the parochial limits of the State where we live, or have no existence at all for us; where its centre of power shall be; whose statues shall be borne in its processions; whose names, what days, what incidents of glory commemorated in its anniversaries, and what symbols blaze on its flag,—in all this there is getting to be a rather growing habit of politic non-committalism. Having learned from Rousseau and Locke, and our own revolutionary age, its theories and its acts, that the State is nothing but a contract, rests in contract, springs from contract; that government is a contrivance of human wisdom for human wants; that the civil life, like the Sabbath, is made for man, not man for either; having only about seventy years ago laid hold of an arbi-

trary fragment of the British empire, and appropriated it to ourselves, which is all the country we ever had; having gone on enlarging, doubling, trebling, changing all this since, as a garment or a house; accustomed to encounter every day, at the polls, in the market, at the miscellaneous banquet of our Liberty everywhere, crowds of persons whom we never saw before, strangers in the country, yet just as good citizens as ourselves; with a whole continent before us, or half a one, to choose a home in; teased and made peevish by all manner of small, local jealousies; tormented by the stimulations of a revolutionary philanthropy; enterprising, speculative, itinerant, improving, "studious of change, and pleased with novelty" beyond the general habit of desultory man; — it might almost seem to be growing to be our national humor to hold ourselves free at every instant, to be and do just what we please, go where we please, stay as long as we please and no longer; and that the State itself were held to be no more than an encampment of tents on the great prairie, pitched at sun-down, and struck to the sharp crack of the rifle next morning, instead of a structure, stately and eternal, in which the generations may come, one after another, to the great gift of this social life.

On such sentiments as these, how can a towering and durable fabric be set up? To use the metaphor of Bacon, on such soil how can "greatness be sown"? How unlike the lessons of the masters, at whose feet you are bred! The studies of our profession have taught us that the State is framed for a duration without end, — without end — till the earth and the heavens be no more. *Sic constituta civitas ut eterna!* In the eye and contemplation of law, its masses may die; its own corporate being can never die. If we inspect the language of its fundamental ordinance, every word expects, assumes, foretells a perpetuity, lasting as "the great globe itself, and all which it inherit." If we go out of that record and inquire for the designs and the hopes of its founders *ab extra*, we know that they constructed it, and bequeathed it, for the latest posterity. If we reverently rise to a conjecture of the purposes for which the Ruler of the world permitted and decreed it to be instituted, in order to discern how soon it will have performed its office and may be laid aside, we see that they reach down to the last hour of the life of the last man that shall live upon the

earth; that it was designed by the Infinite Wisdom, to enable the generation who framed it, and all the generations, to perfect their social, moral, and religious nature; to do and to be good; to pursue happiness; to be fitted, by the various discipline of the social life, by obedience, by worship, for the life to come. When these ends are all answered, the State shall die! When these are answered, *intereat et concidat omnis hic mundus!* Until they are answered, *esto, eritque perpetua!*

In the next place, it has been thought that there was developing itself in the general sentiment, and in the practical politics of the time, a tendency towards one of those great changes by which free States have oftenest perished, — a tendency to push to excess the distinctive and characteristic principles of our system, whereby, as Aristotle has said, governments usually perish, — a tendency towards transition from the republican to the democratical era, of the history and epochs of liberty.

Essentially and generally, it would be pronounced by those who discern it, a tendency to erect the actual majority of the day into the *de jure* and actual government of the day. It is a tendency to regard the actual will of that majority as the law of the State. It is a tendency to regard the shortest and simplest way of collecting that will, and the promptest and most irresistible execution of it, as the true polity of liberty. It is a tendency which, pressed to its last development, would, if considerations of mere convenience or inconvenience did not hinder, do exactly this: it would assemble the whole people in a vast mass, as once they used to assemble beneath the sun of Athens; and there, when the eloquent had spoken, and the wise and the foolish had counselled, would commit the transcendent questions of war, peace, taxation, and treaties; the disposition of the fortunes and honor of the citizen and statesman; death, banishment, or the crown of gold; the making, interpreting, and administration of the law; and all the warm, precious, and multifarious interests of the social life, to the madness or the jest of the hour.

I have not time to present what have been thought to be the proofs of the existence of this tendency; and it is needless to do so. It would be presumptuous, too, to speculate, if it has existence, on its causes and its issues. I desire to advert to certain particulars in which it may be analyzed, and through

which it displays itself, for the purpose of showing that the studies, employments, and, so to say, professional politics, of the bar are essentially, perhaps availably, antagonistical to it, or moderative of it.

It is said, then, that you may remark this tendency, first, in an inclination to depreciate the uses and usurp the functions of those organic forms in which the regular, definite, and legally recognized powers of the State are embodied, — to depreciate the uses and usurp the function of written constitutions, limitations on the legislature, the distribution of government into departments, the independence of the judiciary, the forms of orderly proceeding, and all the elaborate and costly apparatus of checks and balances, by which, as I have said, we seek to secure a government of laws and not of men.

"The first condition" — it is the remark of a man of great genius, who saw very far by glances into the social system, Coleridge, — "the first condition in order to a sound constitution of the body politic, is a due proportion between the free and permeative life and energy of the State and its organized powers." For want of that proportion the government of Athens was shattered and dissolved. For want of that proportion the old constitutions of Solon, the reforms of Clisthenes, the sanctity of the Areopagus, the temperaments of Pericles, were burnt up in the torrent blaze of an unmitigated democracy. Every power of the State — executive, legal, judicial — was grasped by the hundred-handed assembly of the people. The result is in her history. She became a byword of dissension and *injustice;* and that was her ruin.

I wonder how long that incomprehensible democracy would have hesitated, after the spirit of permeative liberty had got the better of the organized forms, upon our Spot Pond, and Long Pond, and Charles River water-questions. This intolerable hardship and circumlocution of applying to a legislature of three independent and coördinate departments, sitting under a written constitution, with an independent judiciary to hold it up to the fundamental law, — the hardship of applying to such a legislature for power to bring water into the city; this operose machinery of orders of notice, hearings before committees, adverse reports, favorable reports rejected, disagreements of the two Houses, veto of Governor, a charter saving

vested rights of other people, meetings of citizens in wards to vote unawed, unwatched, every man according to his sober second thought, — how long do you think such conventionalities as these would have kept that beautiful, passionate, and self-willed Athens, standing, like the Tantalus of her own poetry, plunged in crystal lakes and gentle historical rivers up to the chin, perishing with thirst? Why, some fine, sunshiny forenoon, you would have heard the crier calling the people, one and all, to an extraordinary assembly, perhaps in the Piræus, as a pretty full expression of public opinion was desirable and no other place would hold everybody; you would have seen a stupendous mass-meeting roll itself together as clouds before all the winds; standing on the outer edges of which you could just discern a speaker or two gesticulating, catch a murmur as of waves on the pebbly beach, applause, a loud laugh at a happy hit, observe some six thousand hands lifted to vote or swear, and then the vast congregation would separate and subside, to be seen no more. And the whole record of the transaction would be made up in some half-dozen lines to this effect, — it might be in Æschines, — that in the month of ——, under the archonate of ——, the tribe of ——, exercising the office of prytanes ——, an extraordinary assembly was called to consult on the supply of water; and it appearing that some six persons of great wealth and consideration had opposed its introduction for some time past, and were moreover vehemently suspected of being no better than they should be, it was ordained that they should be fined in round sums, computed to be enough to bring in such a supply as would give every man equal to twenty-eight gallons a day; and a certain obnoxious orator having inquired what possible need there was for so much a head, Demades, the son of the Mariner, replied, that that person was the very last man in all Athens who should put that question, since the assembly must see that he at least could use it to great advantage by washing his face, hands, and robes; and thereupon the people laughed and separated.

And now am I misled by the influence of vocation, when I venture to suppose that the profession of the Bar may do somewhat — should be required to do somewhat — to preserve the true proportion of liberty to organization, — to moderate and to disarm that eternal antagonism?

These "organic forms" of our system — are they not in some just sense committed to your professional charge and care? In this sense, and to this extent, does not your profession approach to, and blend itself with, one, and that not the least in dignity and usefulness, of the departments of statesmanship? Are you not thus statesmen while you are lawyers, and because you are lawyers? These constitutions of government by which a free people have had the virtue and the sense to restrain themselves, — these devices of profound wisdom and a deep study of man, and of the past, by which they have meant to secure the ascendency of the just, lofty, and wise, over the fraudulent, low, and insane, in the long run of our practical politics, — these temperaments by which justice is promoted, and by which liberty is made possible and may be made immortal, — and this *jus publicum*, this great written code of public law, — are they not a part, in the strictest and narrowest sense, of the appropriate science of your profession? More than for any other class or calling in the community, is it not for you to study their sense, comprehend their great uses, and explore their historical origin and illustrations, — to so hold them up as shields, that no act of legislature, no judgment of court, no executive proclamation, no order of any functionary of any description, shall transcend or misconceive them — to so hold them up before your clients and the public, as to keep them at all times living, intelligible, and appreciated in the universal mind?

Something such has, in all the past periods of our history, been one of the functions of the American Bar. To vindicate the true interpretation of the charters of the colonies, to advise what forms of polity, what systems of jurisprudence, what degree and what mode of liberty these charters permitted, — to detect and expose that long succession of infringement which grew at last to the Stamp Act and Tea Tax, and compelled us to turn from broken charters to national independence, — to conduct the transcendent controversy which preceded the Revolution, that grand appeal to the reason of civilization, — this was the work of our first generation of lawyers. To construct the American constitutions, — the higher praise of the second generation. I claim it in part for the sobriety and learning of the American Bar; for the professional instinct

towards the past; for the professional appreciation of order, forms, obedience, restraints; for the more than professional, the profound and wide intimacy with the history of all liberty, classical, mediæval, and above all, of English liberty, — I claim it in part for the American Bar that, springing into existence by revolution, — revolution, which more than anything and all things lacerates and discomposes the popular mind, — justifying that revolution only on a strong principle of natural right, with not one single element or agent of monarchy or aristocracy on our soil or in our blood, — I claim it for the Bar that the constitutions of America so nobly closed the series of our victories! These constitutions owe to the Bar more than their terse and exact expression and systematic arrangements; they owe to it, in part, too, their elements of permanence; their felicitous reconciliation of universal and intense liberty with forms to enshrine and regulations to restrain it; their Anglo-Saxon sobriety and gravity conveyed in the genuine idiom, suggestive of the grandest civil achievements of that unequalled race. To interpret these constitutions, to administer and maintain them, this is the office of our age of the profession. Herein have we somewhat wherein to glory; hereby we come into the class and share in the dignity of founders of States, of restorers of States, of preservers of States.

I said and I repeat that, while lawyers, and because we are lawyers, we are statesmen. We are by profession statesmen. And who may measure the value of this department of public duty? Doubtless in statesmanship there are many mansions, and large variety of conspicuous service. Doubtless to have wisely decided the question of war or peace, — to have adjusted by a skilful negotiation a thousand miles of unsettled boundary-line, — to have laid the corner-stone of some vast policy whereby the currency is corrected, the finances enriched, the measure of industrial fame filled, — are large achievements. And yet I do not know that I can point to one achievement of this department of American statesmanship, which can take rank for its consequences of good above that single decision of the Supreme Court, which adjudged that an act of legislature contrary to the Constitution is void, and that the judicial department is clothed with the power to ascertain the repugnancy and to pronounce the legal conclusion. That the framers of the

Constitution intended this should be so, is certain; but to have asserted it against the Congress and the Executive, — to have vindicated it by that easy yet adamantine demonstration than which the reasonings of the mathematics show nothing surer, — to have inscribed this vast truth of conservatism on the public mind, so that no demagogue, not in the last stage of intoxication, denies it, — this is an achievement of statesmanship of which a thousand years may not exhaust or reveal all the good.

It has been thought, in the next place, that you may remark this unfavorable tendency in a certain false and pernicious *idea of law*, which to some extent possesses the popular mind, — law, its source, its nature, its titles to reverence. Consider it a moment, and contrast it with our idea of law.

It is one of the distemperatures to which an unreasoning liberty may grow, no doubt, to regard *law* as no more nor less than just the will — the actual and present will — of the actual majority of the nation. The majority govern. What the majority pleases, it may ordain. What it ordains is law. So much for the source of law, and so much for the nature of law. But, then, as law is nothing but the will of a major number, as that will differs from the will of yesterday, and will differ from that of to-morrow, and as all law is a restraint on natural right and personal independence, how can it gain a moment's hold on the reverential sentiments of the heart, and the profounder convictions of the judgment? How can it impress a filial awe; how can it conciliate a filial love; how can it sustain a sentiment of veneration; how can it command a rational and animated defence? Such sentiments are not the stuff from which the immortality of a nation is to be woven! Oppose now to this, the loftier philosophy which we have learned. In the language of our system, the law is not the transient and arbitrary creation of the major will, nor of any will. It is not the offspring of will at all. It is the absolute justice of the State, enlightened by the perfect reason of the State. That is law. Enlightened justice assisting the social nature to perfect itself by the social life. It is ordained, doubtless, that is, it is chosen, and is ascertained by the wisdom of man. But, then, it is the master-work of man. *Quæ est*

enim istorum oratio tam exquisita, quæ sit anteponenda bene constitutæ civitati publico jure, et moribus ?[1]

By the costly and elaborate contrivances of our constitutions we have sought to attain the transcendent result of extracting and excluding haste, injustice, revenge, and folly from the place and function of giving the law, and of introducing alone the reason and justice of the wisest and the best. By the aid of time, — time which changes and tries all things ; tries them, and works them pure, — we subject the law, after it is given, to the tests of old experience, to the reason and justice of successive ages and generations, to the best thoughts of the wisest and safest of reformers. And then and thus we pronounce it good. Then and thus we cannot choose but reverence, obey, and enforce it. We would grave it deep into the heart of the undying State. We would strengthen it by opinion, by manners, by private virtue, by habit, by the awful hoar of innumerable ages. All that attracts us to life, all that is charming in the perfected and adorned social nature, we wisely think or we wisely dream, we owe to the all-encircling presence of the law. Not even extravagant do we think it to hold, that the Divine approval may sanction it as not unworthy of the reason which we derive from His own nature. Not extravagant do we hold it to say, that there is thus a voice of the people which is the voice of God.

Doubtless the known historical origin of the law contributes to this opinion of it. Consider for a moment — what that law really is, what the vast body of that law is, to the study and administration of which the lawyer gives his whole life, by which he has trained his mind, established his fortune, won his fame, the theatre of all his triumphs, the means of all his usefulness, the theme of a thousand earnest panegyrics, — what is that law ? Mainly, a body of digested rules and processes and forms, bequeathed by what is for us the old and past time, not of one age, but all the ages of the past, — a vast and multifarious aggregate, some of which you trace above the pyramids, above the flood, the inspired wisdom of the primeval East; some to the scarcely yet historical era of Pythagoras, and to Solon and Socrates; more of it to the robust, practical sense and justice of Rome, the lawgiver of the nations; more still

[1] Cicero de Republica, I., 2.

to the teeming birthtime of the modern mind and life; all of it to some epoch; some of it to every epoch of the past of which history keeps the date. In the way in which it comes down to us, it seems one mighty and continuous stream of experience and reason, accumulated, ancestral, widening and deepening and washing itself clearer as it runs on, the grand agent of civilization, the builder of a thousand cities, the guardian angel of a hundred generations, our own hereditary laws. To revere such a system, would be natural and professional, if it were no more. But it is reasonable, too. There is a deep presumption in favor of that which has endured so long. To say of anything, that it is old, and to leave the matter there,— an opinion, a polity, a code, a possession, a book,— is to say nothing of praise or blame. But to have lived for ages; to be alive to-day,— in a real sense alive, — alive in the hearts, in the reason of to-day; to have lived through ages, not swathed in gums and spices and enshrined in chambers of pyramids, but through ages of unceasing contact and sharp trial with the passions, interests, and affairs of the great world; to have lived through the drums and tramplings of conquests, through revolution, reform, through cycles of opinion running their round; to have lived under many diverse systems of policy, and have survived the many transmigrations from one to another; to have attended the general progress of the race, and shared in its successive ameliorations, — thus to have gathered upon itself the approbation or the sentiments and reason of all civilization and all humanity, — that is, *per se*, a *prima-facie* title to intelligent regard. There is a virtue, there is truth, in that effacing touch of time. It bereaves us of our beauty; it calls our friends from our side, and we are alone; it changes us, and sends us away. But spare what it spares. Spare till you have proved it. Where that touch has passed and left no wrinkle nor spot of decay, what it has passed and left ameliorated and beautified, whatever it be, stars, sea, the fame of the great dead, the State, the law, which is the soul of the State, be sure that therein is some spark of an immortal life.

It is certain that in the American theory, the free theory of government, it is the right of the people, at any moment of its representation in the legislature, to make all the law, and

by its representatives in conventions, to make the Constitution anew. It is their right to do so peaceably and according to existing forms, and to do it by revolution against all forms. This is the theory. But I do not know that any wise man would desire to have this theory every day, or ever, acted upon up to its whole extent, or to have it eternally pressed, promulgated, panegyrized as the grand peculiarity and chief privilege of our condition. Acting upon this theory, we have made our constitutions, founded our policy, written the great body of our law, set our whole government going. It worked well. It works to a charm. I do not know that any man displays wisdom or common sense, by all the while haranguing and stimulating the people to change it. I do not appreciate the sense or humanity of all the while bawling: true, your systems are all good; life, character, property, all safe, — but you have the undoubted right to rub all out and begin again. If I see a man quietly eating his dinner, I do not know why I should tell him that there is a first-rate, extreme medicine, prussic acid, aquafortis, or what not, which he has a perfectly good right to use in any quantity he pleases! If a man is living happily with his wife, I don't know why I should go and say: yes, I see; beautiful and virtuous; I congratulate you, — but let me say, you can get a perfectly legal divorce by going to Vermont, New Jersey, or Pennsylvania. True wisdom would seem to advise the culture of dispositions of rest, contentment, conservation. True wisdom would advise to lock up the extreme medicine till the attack of the alarming malady. True wisdom would advise to place the power of revolution, overturning all to begin anew, rather in the background, to throw over it a politic, well-wrought veil, to reserve it for crises, exigencies, the rare and distant days of great historical epochs. These great, transcendental rights should be preserved, must be, will be. But perhaps you would place them away, reverentially, in the profoundest recesses of the chambers of the dead, down in deep vaults of black marble, lighted by a single silver lamp,—as in that vision of the Gothic king,—to which wise and brave men may go down, in the hour of extremity, to evoke the tremendous divinities of change from their sleep of ages.

"Ni faciat, maria, ac terras, cœlumque profundum,
Quippe ferant rapidi secum, verrantque per auras."[1]

To appreciate the conservative agency and functions of the legal profession, however, it is time to pass from an analysis of the sentiments and opinions which distinguish it, to the occupation by which it is employed. The single labor of our lives is the administration of the law; and the topic on which I wish to say a word in conclusion is, the influence of the actual administration of law in this country on the duration of our free systems themselves. The topic is large and high, and well deserves what I may not now attempt, a profound and exact discussion.

I do not know that in all the elaborate policy by which free States have sought to preserve themselves, there is one device so sure, so simple, so indispensable, as justice, — justice to all; justice to foreign nations of whatever class of greatness or weakness; justice to public creditors, alien or native; justice to every individual citizen, down to the feeblest and the least beloved; justice in the assignment of political and civil right, and place, and opportunity; justice between man and man, every man and every other, — to observe and to administer this virtue steadily, uniformly, and at whatever cost, — this, the best policy and the final course of all governments, is preeminently the policy of free governments. Much the most specious objection to free systems is, that they have been observed in the long run to develop a tendency to some mode of injustice. Resting on a truer theory of natural right in their constitutional construction than any other polity, founded in the absolute and universal equality of man, and permeated and tinged and all astir with this principle through all their frame, and, so far, more nobly just than any other, the doubt which history is supposed to suggest is, whether they do not reveal a tendency towards injustice in other ways. Whether they have been as uniformly true to their engagements. Whether property and good name and life have been quite as safe. Whether the great body of the *jus privatum* has been as skilfully composed and rigorously administered as under the less reasonable and attractive systems of absolute rule. You remember that

[1] Æn. I., 58, 59.

Aristotle, looking back on a historical experience of all sorts of governments extending over many years — Aristotle who went to the court of Philip a republican, and came back a republican — records, in his Politics, *injustice* as the grand and comprehensive cause of the downfall of democracies. The historian of the Italian democracies extends the remark to them. That all States should be stable in proportion as they are just, and in proportion as they administer justly, is what might be asserted.

If this end is answered; if every man has his own exactly and uniformly, absolutism itself is found tolerable. If it is not, liberty — slavery, are but dreary and transient things. *Placida quies sub libertate*, in the words of Algernon Sydney and of the seal of Massachusetts, — that is the union of felicities which should make the State immortal. Whether Republics have usually perished from injustice, need not be debated. One there was, the most renowned of all, that certainly did so. The injustice practised by the Athens of the age of Demosthenes upon its citizens, and suffered to be practised by one another, was as marvellous as the capacities of its dialect, as the eloquence by which its masses were regaled, and swayed this way and that as clouds, as waves, — marvellous as the long banquet of beauty in which they revelled, — as their love of Athens, and their passion of glory. There was not one day in the whole public life of Demosthenes when the fortune, the good name, the civil existence of any considerable man was safer there than it would have been at Constantinople or Cairo under the very worst forms of Turkish rule. There was a sycophant to accuse, a demagogue to prosecute, a fickle, selfish, necessitous court — no court at all, only a commission of some hundreds or thousands from the public assembly sitting in the sunshine, directly interested in the cause — to pronounce judgment. And he who rose rich and honored, might be flying at night for his life to some Persian or Macedonian outpost, to die by poison on his way in the temple of Neptune.

Is there not somewhat in sharing in that administration, observing and enjoying it, which tends to substitute in the professional and in the popular mind, in place of the wild consciousness of possessing summary power, ultimate power, the wild desire to exert it, and to grasp and subject all

things to its rule, — to substitute for this the more conservative sentiments of reverence for a law independent of, and distinct from, and antagonistical to, the humor of the hour? Is there not something in the study and administrative enjoyment of an elaborate, rational, and ancient jurisprudence, which tends to raise the law itself, in the professional and in the general idea, almost up to the nature of an independent, superior reason, in one sense out of the people, in one sense above them, — out of and above, and independent of, and collateral to, the people of any given day? In all its vast volumes of provisions, very little of it is seen to be produced by the actual will of the existing generation. The first thing we know about it is, that we are actually being governed by it. The next thing we know is, we are rightfully and beneficially governed by it. We did not help to make it. No man now living helped to make much of it. The judge does not make it. Like the structure of the State itself, we found it around us at the earliest dawn of reason, it guarded the helplessness of our infancy, it restrained the passions of our youth, it protects the acquisitions of our manhood, it shields the sanctity of the grave, it executes the will of the departed. Invisible, omnipresent, a real yet impalpable existence, it seems more a spirit, an abstraction, — the whispered yet authoritative voice of all the past and all the good, — than like the transient contrivance of altogether such as ourselves. We come to think of it, not so much as a set of provisions and rules which we can unmake, amend, and annul, as of a guide whom it is wiser to follow, an authority whom it is better to obey, a wisdom which it is not unbecoming to revere, a power — a superior — whose service is perfect freedom. Thus at last the spirit of the law descends into the great heart of the people for healing and for conservation. Hear the striking platonisms of Coleridge: "Strength may be met with strength: the power of inflicting pain may be baffled by the pride of endurance: the eye of rage may be answered by the stare of defiance, or the downcast look of dark and revengeful resolve: and with all this there is an outward and determined object to which the mind can attach its passions and purposes, and bury its own disquietudes in the full occupation of the senses. But who dares struggle with an *invisible* combatant, with an enemy which exists and makes us

know its existence, but *where* it is we ask in vain? No space contains it, time promises no control over it, it has no ear for my threats, it has no substance that my hands can grasp or my weapons find vulnerable; it commands and cannot be commanded, it acts and is insusceptible of my reaction, the more I strive to subdue it, the more am I compelled to think of it, and the more I think of it, the more do I find it to possess a reality out of myself, and not to be a phantom of my own imagination; — that all but the most abandoned men acknowledge its authority, and that the whole strength and majesty of my country are pledged to support it; and yet that *for me* its power is the same with that of my own permanent self, and that all the choice which is permitted to me consists in having it for my guardian angel or my avenging fiend. This is the spirit of LAW, — the lute of Amphion, — the harp of Orpheus. This is the true necessity which compels man into the social state, now and always, by a still beginning, never ceasing, force of moral cohesion." [1]

In supposing that conservation is the grand and prominent public function of the American Bar in the State, I have not felt that I assigned to a profession, to which I count it so high a privilege to belong, a part and a duty at all beneath its loftiest claims. I shall not deny that to found a State which grows to be a nation, on the ruins of an older, or on a waste of earth where was none before, is, intrinsically and in the judgment of the world, of the largest order of human achievements. Of the chief of men are the *conditores imperiorum*. But to keep the city is only not less difficult and glorious than to build it. Both rise, in the estimate of the most eloquent and most wise of Romans, to the rank of divine achievement. I appreciate the uses and the glory of a great and timely reform. Thrice happy and honored who leaves the Constitution better than he found it. But to find it good and keep it so, this, too, is virtue and praise.

It was the boast of Augustus, — as Lord Brougham remembers in the close of his speech on the improvement of the law, — that he found Rome of brick and left it of marble. Ay. But he found Rome free, and left her a slave. He found her a republic, and left her an empire! He found the large soul

[1] The Friend.

of Cicero unfolding the nature, speaking the high praise, and recording the maxims of regulated liberty, with that eloquence which so many millions of hearts have owned, — and he left poets and artists! We find our city of marble, and we will leave it marble. Yes, all, all, up to the grand, central, and eternal dome; we will leave it marble, as we find it. To that office, to that praise, let even the claims of your profession be subordinated. *Pro clientibus sæpe; pro lege, pro republica semper.*

THE ELOQUENCE OF REVOLUTIONARY PERIODS:

A LECTURE DELIVERED BEFORE THE MECHANIC APPRENTICES' LIBRARY ASSOCIATION, FEBRUARY 19, 1857.

If you consider deliberative eloquence, in its highest forms and noblest exertion, to be the utterances of men of genius practised, earnest, and sincere, according to a rule of art, in presence of large assemblies, in great conjunctures of public affairs, *to persuade a People*, it is quite plain that those largest of all conjunctures, which you properly call times of revolution, must demand and supply a deliberative eloquence *all their own.*

All kinds of genius, — I mean of that genius whose organ is art or language, and whose witness, hearer, and judge is the eye, ear, imagination, and heart of cultivated humanity, — if cast on a marked and stormy age, an age lifted above and out of the even, general flow of prescriptive life, by great changes, new ideas, and strong passions, extraordinary abilities and enterprises, some grand visible revelation of the death-throes, birth-times, in which an old creation passes away and a new one comes to light, — all kinds of such genius, cast on such an age, are tinged and moulded by it. None so hardy, none so spiritual, none so individualized, none so self-nourished, none so immersed in its own consciousness, subjectivity, and self-admiration, as not to own and bow to the omnipresent manifested spirit of the time. Goethe, Byron, Alfieri, the far mightier Milton, are ready illustrations of this. Between them and that crisis of the nations, and of the race in which they lived, on which they looked fascinated, entranced, how influencive and inevitable the sympathy! Into that bright or

dim dream of enchantment, invention, ideality, in which was their poet-life, how are the shapes of this outward world projected, how its cries of despair or triumph reëcho there, that new heaven and new earth, their dwelling-place; how they give back the cloud and storm, and sunshine and waning moon; how they breathe the gales, and laugh with the flowers, and sadden with the wastes, of our earth and sky! Topics, treatment, thoughts, characters, moods, — how they all but imitate and reproduce the real in the ideal, life in immortality. Take the extraordinary instance of Milton. That England of the great Civil War, the England of the Commonwealth and Cromwell, that England which saw the king discrowned and beheaded, the House of Lords abolished, Puritanism triumphant on the bloody days of Worcester and Dunbar, the deliberations of the Long Parliament, the Westminster Assembly constructing and promulgating its creed on the awful mysteries, — how does the presence and influence of that England seem to haunt you in "Samson Agonistes," in "Paradise Lost," in "Paradise Regained,"— a memory, a sense of earth revived in the peace of the world beyond the grave, ages after death! Milton's soul, if ever mortal spirit did so, "was a star, and dwelt apart." Yet everywhere, almost, — in the dubious war on the plains of heaven; in the debates of the synod of fallen demigods; in the tremendous conception of that pride and will and self-trust, which rose in the Archangel ruined against the Highest; in those dogmas and those speculations of theology which wander unresting, unanswered, through eternity; in that tone of austere independence and indignant insubordination, obedient, however, to a higher law and a diviner vision; in that contempt of other human judgments, and defiant enunciation of its own, — everywhere you seem to meet the Puritan, the Republican, the defender of the claim of the people of England to be free; the apologist, the advocate of the execution of kings; the champion in all lands and all ages of the liberty of conscience, of speech, of the press; the secretary, the counsellor of Cromwell; the child, organ, memorial of the age. That heroic individuality, what was it but the product of a hard, unaccommodating, original, mighty nature, moulded and tinged by the tragic and sharp realities of national revolution? and it seems to go with him, partaking of its mixed original, whith-

ersoever the song wanders, soars, or sinks, — in the paths of Eden, on the "perilous edge of battle" waged for the throne of God, in reporting the counsels of the Infinite in the past eternity, in hailing the Holy Light on which those orbs, overplied, as he consoled himself, in liberty's defence, were closed forever.

So, too, of the lesser but yet resplendent names of Goethe, Byron, Alfieri: the spirit of the time was as vehement in them as it was in the young Napoleon. They shared its fire, its perturbed and towering mind, its longings, its free thinking, its passion of strong sensations, its deep insights, its lust of power and of change, and all its dark unrest, as fully as he did; and they uttered its voices in those troubled, unequalled songs, as *he* uttered them first at Marengo and Lodi by the cannon of his victories.

Sometimes the blessedness of that great calm which follows the exhausted tempest of the moral heaven, in which the winds go down and the billows rock themselves to sleep, is imaged in the poems of an age. That most consummate effort of the finer genius of Rome, — the Georgics of Virgil, for example, — that decorated, abundant, and contented Italy that smiles there; the cattle, larger and smaller, on so many hills; the holidays of vintage; the murmur of bees; the happy husbandman; the old, golden age of Saturn returning, — what is all that but the long sigh of the people of Rome, the sigh of Italy, the sigh of the world, breathed through that unequalled harmony and sensibility, for peace, — peace under its vine and fig-tree, — peace, rest, after a hundred years of insecurity, convulsion, and blood?

Now, if that form of genius, — genius in art, in poetry, whose end is delight, whose wanderings

> "are where the Muses haunt
> Clear spring, or shady green, or sunny hill,"

whose nourishment is

> "Of thoughts that voluntary move harmonious numbers,"

— if that kind, — solitary, introspective, the creature of the element, — takes a bias and a tincture from a strongly agitated time, how much truer must this be of that genius whose office, whose art, it is, by speech, by deep feelings and earnest con-

victions overflowing in eloquent speech, to communicate with the people of such a time directly upon the emotions it excites, the hopes it inspires, the duties it imposes, the tremendous alternative it holds out? How inevitable that the eloquence of revolutions should be all compact of the passing hour! How inevitable that the audiences such seasons assemble, the crises hurried onward as the sea its succession of billows, the great passions they set on fire, the pity, the terror they justify, the mighty interests they place at stake, the expansive and gorgeous ideas on which they roll, the simplicity, definiteness, and prominence of the objects which they set before all men's eyes, the concussion, the stimulation which they give to the whole meditative as well as emotional faculties of a generation, — how inevitable that such a conjunctive age and revolution should create its own style and tone and form of public speech!

For, what is a revolution? I shall call it that agony through which, by which, — the accustomed course, the accustomed and normal ebb and flow, of the life of the State, being violently suspended, from causes in part internal, — a new nation is born, or an old nation dies, or by which, without losing its identity, a nation puts off its constitution of tyranny and becomes free, self-governed, or is despoiled of its constitution of freedom and becomes enslaved, the slave of its own government. Such a change as either of these, — such a birth, such a dying, such emancipation, such enslavement, — such a change, — vast, violent, compressed within some comparatively brief time, palpable to all sense and all consciousness, so that thousands, millions, feel together that the spell of a great historical hour is upon them all at once, — such an one I call a revolution. And these are they which are transacted on the high places of the world, and make up the epic and the tragic matter of the story of nations.

Illustrations of all these kinds will readily occur to you. Of one class, of a revolution in which a national life expired, internal causes co-working with force from without, you see an instance, grand, sad, memorable in that day, when in the downward age of Greece, that once radiant brow was struck by Philip, and by the successors of Alexander, forever to the earth. Of a revolution in which a nation, keeping its life,

its identity, exchanged a government of freedom for a government of tyranny, you have an instance, not less grand and memorable, bloodier and fuller of terror in its incidents and instrumentalities, in that time when republican Rome became the Rome of the Cæsars, and the dignity of the Senate unrobed itself, and the proud and noble voice of the people in the forum died away in the presence of the purple and the guard. Of that type of revolution in which a nation, still keeping its life and identity, exchanges her constitution of slavery for one of freedom, or seems to do so, or rises to do so, you will recall the example of the France of 1789. Of that other type of revolution in which a nation begins, or seems to begin, to be, there are examples in Ireland in 1782, in America in 1776. These, and such as these, if other such there are, I call revolutions.

In some things, — in causes, incidents, issues, lessons, distinguished from one another by some traits of the eloquence they demand and supply, — there is a certain common character to them all; and there are certain common peculiarities by which the eloquence of them all is sure to be unlike, essentially, the whole public speech of times quieter, happier, less crowded, less glorious.

Glance first at the common characteristics of all the deliberative eloquence of all the classes of revolutions, as I have defined revolution.

If you bear in mind that the aim of deliberative eloquence is *to persuade to an action*, and that to persuade to an action it must be shown that to perform it will gratify some one of the desires or affections or sentiments, — you may call them, altogether, *passions*, — which are the springs of all action, some love of our own happiness, some love of our country, some love of man, some love of honor, some approval of our own conscience, some fear or some love of God, you see *that* eloquence will be characterized, — first, by the nature of the actions to which it persuades; secondly, by the nature of the desire or affection or sentiment, — the nature of the passion, in other words, — by appeal to which it seeks to persuade to the action; and then, I say, that the capital peculiarity of the eloquence of all times of revolution, as I have described revolution, is that the actions it persuades to

are the highest and most heroic which men can do, and the passions it would inspire, in order to persuade to them, are the most lofty which man can feel. "High actions and high passions," — such are Milton's words, — high actions through and by high passions; these are the end and these the means of the orator of the revolution.

Hence are his topics large, simple, intelligible, affecting. Hence are his views broad, impressive, popular; no trivial details, no wire-woven developments, no subtle distinctions and drawing of fine lines about the boundaries of ideas, no speculation, no ingenuity; all is elemental, comprehensive, intense, practical, unqualified, undoubting. It is not of the small things of minor and instrumental politics he comes to speak, or men come to hear. It is not to speak or to hear about permitting an Athenian citizen to change his tribe; about permitting the Roman Knights to have jurisdiction of trials equally with the Senate; it is not about allowing a £10 householder to vote for a member of Parliament; about duties on indigo, or onion-seed, or even tea.

"That strain you hear is of an higher mood."

It is the rallying cry of patriotism, of liberty, in the sublimest crisis of the State, — of man. It is a deliberation of empire, of glory, of existence on which they come together. To be or not to be, — that is the question. Shall the children of the men of Marathon become slaves of Philip? Shall the majesty of the senate and people of Rome stoop to wear the chains forging by the military executors of the will of Julius Cæsar! Shall the assembled representatives of France, just waking from her sleep of ages to claim the rights of man, — shall they disperse, their work undone, their work just commencing; and shall they disperse at the order of the king? or shall the messenger be bid to go, in the thunder-tones of Mirabeau, — and tell his master that "we sit here to do the will of our constituents, and that we will not be moved from these seats but by the point of the bayonet"? Shall Ireland bound upward from her long prostration, and cast from her the last link of the British chain, and shall she advance "from injuries to arms, from arms to liberty," from liberty to glory?

Shall the thirteen Colonies become, and be, free and inde-

pendent States, and come unabashed, unterrified, an equal, into the majestic assembly of the nations? These are the thoughts with which all bosoms are distended and oppressed. Filled with these, with these flashing in every eye, swelling every heart, pervading electric all ages, all orders, like a visitation, "an unquenchable public fire," men come together, — the thousands of Athens around the Bema, or in the Temple of Dionysus, — the people of Rome in the forum, the Senate in that council-chamber of the world, — the masses of France, as the spring-tide, into her gardens of the Tuileries, her club-rooms, her hall of the convention, — the representatives, the genius, the grace, the beauty of Ireland into the Tuscan Gallery of her House of Commons, — the delegates of the Colonies into the Hall of Independence at Philadelphia, — thus men come, in an hour of revolution, to hang upon the lips from which they hope, they need, they demand, to hear the things which belong to their national salvation, hungering for the bread of life.

And then and thus comes the orator of that time, kindling with their fire; sympathizing with that great beating heart; penetrated, not subdued; lifted up rather by a sublime and rare moment of history made real to his consciousness; charged with the very mission of life, yet unassured whether they will hear or will forbear; transcendent good within their grasp, yet a possibility that the fatal and critical opportunity of salvation will be wasted; the last evil of nations and of men overhanging, yet the siren song of peace — peace when there is no peace — chanted madly by some voice of sloth or fear, — there and thus the orators of revolutions come to work their work! And what then is demanded, and how it is to be done, you all see; and that in some of the characteristics of their eloquence they must all be alike. *Actions*, not law or policy, whose growth and fruits are to be slowly evolved by time and calm; actions daring, doubtful but instant; the new things of a new world, — these are what the speaker counsels; large, elementary, gorgeous ideas of right, of equality, of independence, of liberty, of progress through convulsion, — these are the principles from which he reasons, *when he reasons*, — these are the pinions of the thought on which he soars and stays; and then the primeval

and indestructible sentiments of the breast of man, — his sense of right, his estimation of himself, his sense of honor, his love of fame, his triumph and his joy in the dear name of country, the trophies that tell of the past, the hopes that gild and herald her dawn, — these are the springs of action to which he appeals, — these are the chords his fingers sweep, and from which he draws out the troubled music, "solemn as death, serene as the undying confidence of patriotism," to which he would have the battalions of the people march! Directness, plainness, a narrow range of topics, few details, few but grand ideas, a headlong tide of sentiment and feeling; vehement, indignant, and reproachful reasonings, — winged general maxims of wisdom and life; an example from Plutarch; a pregnant sentence of Tacitus; thoughts going forth as ministers of nature in robes of light, and with arms in their hands; thoughts that breathe and words that burn, — these vaguely, approximately, express the general type of all this speech.

I have spoken of some characteristics common to the eloquence of all revolutions. But they differ from one another; and their eloquence differs too.

Take first that instance — sad, grand, and memorable forever — in which Greece, prepared for it by causes acting within, perished at last by the gold and the phalanx of Macedon. The orator of that time is the first name in the ancient eloquence, in some respects — in the transcendent opportunity of his life and death at least — the first name in *all* eloquence, — Demosthenes.

Begin with him, — the orator of the nation which is expiring. The most Athenian of the Athenians, the most Greek of all the Greeks, it was his mission to utter the last and noblest protest of Grecian independence, and to pour out the whole gathered, traditional, passionate patriotism of the freest and most country-loving of all the races of man, in one final strain of higher mood than the world before or since has heard. The scheme of politics, the ethics, the public service, the eloquence, the whole life, of this man have all the unity and consistency of parts, — all the simplicity and rapid and transparent flow of a masterpiece of Attic art. That dying hour in the Temple of Neptune brought the long tragic

action with a befitting grandeur and terror and pity to its close. At the moment when he became of age to take on him the first duties of Athenian citizenship, he saw soonest of his countrymen, with keenest and justest discernment, that the independence of Athens — the independence of the whole old historical Greece — was directly and formidably assailed by the arms and the gold of a rising, half-barbarous military monarchy on its northern frontier. If that Philip — if that Alexander — succeeded in the design so transparent to his eye, — so transparent to ours now, though some good men and wise men could not yet see it so, — the Greece of his birth, pride, and love, — that fair, kindred group of States, not straitly united by a constitution, yet to him, by language, by blood, by culture, by institutions, by tradition, by trophies, — "the descent and concatenation and distribution of glory," — by disdain of masters abroad and tyrants at home, seeming to him a beautiful identity, — that Greece would perish for evermore. To frustrate that design, was the *one single* effort of the public life of Demosthenes of thirty years. To devise, to organize and apply, the means of doing so, was the one single task of all his statesmanship, all his diplomacy, all his plans of finance, all his political combinations, all his matchless eloquence.

Whatsoever of usefulness, or goodness, or grandeur there is in patriotism, — that patriotism which is employed in keeping its country alive, — all this praise is his. Some there were in that downward age — some ponderous historians of Greece there are now — who said and say that a Macedonian conquest was not so bad a thing; that it was not so much a dying of Greece as a new life in another body, a higher being, a mere transmutation of matter, a mere diffusion of the race and language, the fountain merely sinking into the earth in Attica to rise in Syria, to rise in Alexandria. All these metaphysics of history were lost on him. He felt like a Greek who was a Greek. He felt that the identity of Greek political life consisted in this: that it owned no foreign master, and that it acknowledged no despotic single will at home. Independence of all the world without; self-government; the rule and the obedience of law self-imposed; rights and obligations reciprocally due, — due from man to man

within the city, under the constitution, — this was in essence Grecian public life — Grecian life. Love of beauty and of glory, faultless taste, subtilty and fancy in supreme degree, overflowing in an art, a poetry, a speculative philosophy, an eloquence, a whole literature, — making up so large a part of our manifold and immortal inheritance from the past, — this was greatness too, certainly. But it is in her pride of independence, and in her tempestuous internal freedom; it is in Marathon or Thermopylæ and the games of the Olympia — and that stormy, quick-witted, wilful and passionate people — that he recognized, that we recognize the true and nobler individuality.

To keep all this against the gold and the spear of that half civilized military despotism — in the first rising strength of a new national life — was the mission, say rather the high endeavor of Demosthenes. To this for a lifetime he gave himself, — he abandoned himself, — nor rested till all was over; and a little poison in a ring was all the dying mother could leave her child to help him escape her murderers and his; death by poison in the temple on the island, — praise, tears, and admiration through all time.

You see at once, in the singleness and simplicity, yet difficulty and grandeur, of the work he had to work, an explanation of many of the characteristics of his eloquence usually dwelt on, — its directness, its perspicuity, its disdain of ornament, its freedom from dissertation, and refining, and detail, and wearisome development, — the fewness of its topics, the limited range of its ideas, — *its harmony and unity of spirit and effect*, — the whole speech of three hours seeming but one blow of a thunderbolt, by which a tower, a furlong of a city-wall, might tumble down, — its austere, almost fierce, gloomy intensity and earnestness, — its rapidity and vehemence, — the indignation, the grief, the wonder, the love which seem to cry out, "Why will ye die?"

But this brings me to say that there are other characteristics less spoken of: here and there through these grand exhortations there breathes another tone, for which you must seek another solution. That spirit — so vehement, so enthusiastic, so hopeful, so bold — was clear-sighted too; and he could not fail to discern in all things around him but too

much cause to fear that he had come on the last times of Greece. Yes, he might well see and feel that it was his to be the orator of the expiring nation!

The old public life of Greece was in its decay. The outward, visible Athens seemed unchanged. There she sat, as in the foretime, on her citadel rock, in sight of her auxiliar sea, crowned, garlanded, wanton, with all beauty, all glory, and all delight. Yet all was changed! There stood the walls of Themistocles; but the men of Marathon, where were they? Instead — vanity, effeminacy, sensual self-indulgence, sordid avarice, distrust of the gods, — the theatre, the banquet, the garland dripping with Samian wine!

The second childhood had come. Like their own grasshoppers, they would make their old age an ungraceful infancy, an evening revel, and sing their fill. Gleams of the once matchless race and time broke through here and there, and played on the surface, as the sun setting on Salamis; but the summer was ending; the day was far spent; the bright consummate flower that never might in other climate grow, was fain to bow to the dread decree of eternal change!

The great statesman was himself unchanged. His whole public life, therefore, was a contention. It was one long breathing, one long trust, one long prayer that these dry bones might live.

Therefore, also, ever, there seems to me through all that fire, sublimity, and confidence, a certain — I know not what I should call it — a half-indulged, half-repressed consciousness that all is lost, and all is vain! It is as if the orator were a prophet too, and the vision he saw confronted and saddened the speech he uttered. There is the expostulation, the reproach, the anger, the choking grief of a patriot who has his whole country, literally, within the sound of his voice, among the scenes of all their glory, who knows — who thinks he knows — as well as he knows his own existence, that if they WILL, they SHALL be free, — who cannot let go the dear and sweetest error, if it is so, of salvation possible to the State, and yet, when the pause of exhaustion comes, and the vision his wishes had sketched shows less palpably, and the glow of the spirit sinks, almost owns to himself that the hope he felt was but the resolution of despair.

"I see a hand you cannot see,
I hear a voice you cannot hear!"

Three days of this man's life stand out to the imagination from its grand, sad, general tenor.

First of these was that in his thirtieth year when he pronounced his first oration against Philip of Macedon. That day — without office, without even call by the people, without waiting for the veteran haranguers and advisers of the city toward whom the assembly was looking to hear, when the sacrifices had been performed, and the herald had made proclamation — he went up to counsel his countrymen; and when he had concluded, he, the son of the sword manufacturer, — a young man, in the yet early flush and enthusiasm of public virtue, — had practically, without formal suffrage, elevated himself to the chief magistracy of Athens for all the future lifetime of Athenian freedom. He sprung up that day by one bound to this height so dazzling, and there he stood till the eye of Greece was closed forever. As he came down from that stage on which Pericles had spoken to a former generation, not unconscious of the actual triumph, some feeling of the greater future in the instant, — a grave expectation on that stern, melancholy face, that the midnight studies in the cave by the sea had loosed the tongue of the stammerer; that the closed lips had been touched by fire, and the deep miraculous fountain of eloquence been unsealed, — I can imagine him to say, "And these applauses I have won by no flattery of the people; no sophistries; no rhetoric; no counsels of self-indulgence; no siren song transforming to beasts! As I have won let me keep them. Be mine to avow that without regenerated Athens Greece already has her master. Be mine to open my country's eye to the whole danger and the single remedy; to turn these States away from their idle fears of Persia and their senseless jealousy of each other, and fix their apprehensions on their true enemy, perhaps their destroyer, this soldier of Macedon. Be mine to persuade old men and rich men to give, and young men, spurning away the aid of mercenaries, themselves to strike for Greece by sea and land as in her heroic time. Be mine to lift up the heart of this Athens; to erect the spirit of this downward age; to reënthrone the sentiment of duty for its own sake, — the

glory of effort, the glory of self-sacrifice and of suffering, — to reënthrone these fading sentiments in the soul of my people, — or all is lost — is lost!"

And as these thoughts which embody his exact whole public life came on him, I can imagine him turning away from the applauses of an audience that had found by a sure instinct in that essay of an hour its mightiest orator in that young man, — turning the sight up from the Salamis and the busy city beneath, and pausing to stay his spirit by the cheerful and fair religions of the Acropolis, — that temple, that fortress, that gallery of the arts, — serene and steadfast as the floor of Olympus, — and then descending homewards to begin his great trust of guiding the public life of expiring Greece.

Turn to his next great day. Twelve years have passed, and the liberties of Greece have been cloven down at Chæronea forever. Philip is dead, and the young Alexander is master. And now, in this hour of her humiliation, he who had advised and directed the long series of her unavailing warfare; to whose eloquence, to whose fond dream, to whose activity, to whose desperate fidelity incorrupt, she owed it, that she had fallen as became the mother of the men of Marathon, — he is arraigned for this whole public life, and rises before an audience gathered of all Greece — gathered of all the lettered world, to vindicate his title to the crown.

The youthful orator has grown to be a man of fifty-two. For him, for Greece, the future now is indeed a dream. Some possible chance, some god, some oracle, may give to strike another blow; but for the present all is over — is over! It is the glory or the shame of the past which is to be appreciated now. It is the dead for freedom for whom he is to give account. It is for a perished nation that he comes there and then to be judged. Others have laid down the trust of public life at the close of splendid successes. His administration saw liberty and the State expire. Others could point the nation they had been conducting to some land of promise beyond the river; to some new field and new age of greatness; "to future sons and daughters yet unborn," and so challenge the farewell applauses of their time. He and his Athens had lost all things, — independence, national life, hope, all things but honor; and how should he answer, in that day, for his

share in contributing to a calamity so accomplished? How he answered all men know. In the noblest deliberative discourse ever uttered by mortal lips, there, in their presence who had seen his outgoings and incomings for his whole public life, who had known his purity, his wisdom, his civil courage; who had sympathized, had trembled, had kindled with all his emotions of a lifetime; in whose half-extinguished virtue he had lighted up the fire of a better age, he reviewed that grand and melancholy story; he gave them to see through that pictured retrospect how it had been appointed to them to act in the final extremity of Greece; what dignity, what responsibleness, what tragic and pathetic interest, had belonged to their place and fortunes; how they had been singled out to strike the last blow for the noblest cause; and how gloriously they had been minded, without calculation of the chances of success or failure, to stand or fall in the passes of the dear mother land! All that Greece had in her of the historical past — all of letters, refinement, renowned grace and liberty — all was represented by you, and nobly have ye striven to defend it all! Grandly ye resolved; grandly ye have resisted; grandly have ye fallen!

That day he read his history in a nation's eyes. The still just, stricken heart of the people of Athens folded the orator-statesman to its love, and set on his head forever the crown of gold!

One day more was wanting to that high tragic part, and how that was discharged Plutarch and Lucian have imagined strikingly. If it were a death self-inflicted, our moral judgments must deeply deplore and condemn. Some uncertainty attends the act; and from the Grecian stand-point, we may admit its pathos and own its grandeur.

Sixteen years had now passed since the fatal battle of Chæronea, — eight since the pleading for the crown. He was now in the sixtieth year of his life. In that time the final struggle of Greece was attempted, — another attempt, — and all was over. In August, three hundred and twenty-two years before Christ, a decisive victory of the Macedonians had scattered the hasty levies of the Greeks, — the Macedonian conqueror came near to Athens; stationed a garrison of her conquerors above the harbor to command it; abolished the

lemocratical constitution, and decreed the banishment of twelve housand Athenian citizens. One thing more was wanting to ıttest that Athens, that Greece had completely perished at ength — and that was the surrender of the orator to atone ›y death for the resistance which he had so long persuaded ıis countrymen to attempt against her ultimate destroyer. This surrender the conqueror demanded. He had no longer ı country to protect him by arms. Could she do it by her gods? He withdrew to an island some miles from Athens, ınd there sought an asylum in the temple of Neptune. The ›xile hunter came with his Thracians to the door, and would ıave persuaded him to commit himself to what he called the ›lemency of the king of Macedon. I give the rest in a free ›ranslation from Lucien.

"I dread the clemency which you offer me," he answered, 'more than the torture and death for which I had been look- ng; for I cannot bear that it be reported that the king has ›orrupted me by the promise of life to desert the ranks of Greece, and stand in those of Macedon. Glorious and beau- ›iful I should have thought it, if that life could have been guarded by my country; by the fleet; by the walls which I ıave builded for her; by the treasury I have filled; by her ›onstitution of popular liberty; by her assemblies of freemen; by her ancestral glory; by the love of my countrymen who have crowned me so often; by Greece which I have saved ıitherto. But since this may not be, if it is thus that this island, this sea, this temple of Neptune, these altars, these sanctities of religion cannot keep me from the court of the king of Macedon, a spectacle, — a slave, — I, Demosthenes, whom nature never formed for disgrace, — I, who have drunk in from Xenophon, from Plato, the hope of immortality, — I, for the honor of Athens, prefer death to slavery, and wrap myself thus about with liberty, the fairest winding sheet!" And so he drew the poison from his ring, and smiled and bade the tyrant farewell, and died, snatched opportunely away by some god, his attendant reported, — great unconquered soul; and the voice of Greece was hushed forever.

Next for instruction and impressiveness to the revolution by which a nation dies, is that in which, preserving its life, it is ›ompelled to exchange a constitution of freedom for the gov-

ernment of tyranny. And in this class the grandest, most bloody, memorable, and instructive in the history of man, is that by which republican Rome became the Rome of the Cæsars; and senate, consul, knights, tribune, people, the occasional dictator, all were brought down on a wide equality of servitude before the emperor and the army. Of the aspect of such a revolution in eloquence, you have an illustration of extraordinary interest and splendor in the instance of Cicero, that greatest name by far of the whole Roman mental and lettered culture, — the most consummate production of the Latin type of genius, — the one immortal voice of the Latin speech by universal consent; teacher, consoler, benefactor of all ages, — in whom Augustine and Erasmus could find and love a kind of anticipated approximative Christianity. Turning from all he wrote, spoke, did, and suffered beside, all his other studies, all his other praise, fix your eye on him now, as the the orator of the expiring liberty of the commonwealth.

He was murdered, in the sixty-fourth year of his life, by the triumvirate of soldiers, Augustus, Lepidus, and Mark Antony, who had just consummated the overthrow of that republic, extinguished the hopes the death of Julius Cæsar had excited, and were in the act to set up the frowning arch of the ranged empire. His death not only closed the prescription, as Antony said, but it did more; it closed and crowned, with a large, tragic interest, that most stupendous of revolutions which, beginning years before, (he is a wise man who can tell you when it began), transformed at length republican Rome into the Rome of Augustus, of Tiberius, and passed the dominion of the world, from the senate and people of the one Eternal City, to an Emperor and his legions. With his life the light of freedom went out. Till that voice was hushed the triumph of despotism seemed insecure; it was fit, her grandest themes and her diviner nourishment of liberty forbidden, that eloquence should die.

No great man's life had ever a grander close. The stream of the revolution in which the republic was to perish had swept all Rome along, him with the rest, unsympathizing, resisting. It seemed to have consummated the downfall of the constitution when it made Julius Cæsar perpetual dictator. But he was slain by the conspirators in March of the forty-

fourth year before Christ; and with this event, though he had not been of the conspiracy, the hopes of Cicero to stay the bloody and dark tide, and to reëstablish and reform the constitution of the republic, revived at once; and thenceforward, with scarcely the intermission of sleep, he gave himself to the last — they proved to be last — proud and sad offices of Roman liberty, until all such hopes were quenched in his blood. In that interval of not quite two years, I rejoice to say that no worshipper of the Cæsars of that day or this, no envier and sneerer at transcendent and prescriptive reputations, no laborious pedant judging of high souls by his own small one, and loving his own crotchet better than the fame of the truly great departed, — no Appian, nor Dion Cassius, nor Dr. Hooke, nor Merivale, nor Drumann, — not one of them in those last two years pretends to find by his microscope fitted into the end of his telescope, one spot on the sun going down. In all things and in all places of duty, by wise counsels given freely, by correspondence with the generals of the republic in arms, by personal intercourse with patriots at Rome, by universal activity and effective influence, by courage, by contempt of death, by eloquence, ringing sweeter and nobler in the senate-house and in the meetings of the people, each strain sweeter and nobler than the former till the last, — he shone out, last and greatest of Romans. "For myself," he said, in one of the fourteen immortal discourses in the senate, "I make this profession. I defended the Commonwealth when I was young. I will not desert her now that I am old. I despised the swords of Catiline; shall I tremble at those of Antony? Nay, joyfully rather would I yield this frame to a bloody death, if so I might win back freedom to the State." That lofty profession he held fast — to the end. That death it was his to welcome! It could not give to Rome the freedom for which she was no longer fit; yet had he "the consolation, the joy, the triumph" not to survive it, and to leave an example, which is of the lessons of liberty and glory unblamed, to-day and forever.

I know very well that there is a theory of history, and rather a taking theory too, which would bereave him, and all the other great names of the last ages of the republic, of their wreath, and set it on the brow of the first Cæsar and the

second, of Julius Cæsar and Cæsar Augustus. There is a theory, that it was time the republic should end, and the empire begin. Liberty, they say, had failed splendidly. It had grown an obsolete idea. It was behind the age. In the long, fatal flow of that stream of development and necessity, which they say represents the history of man, the hour was reached in which it was fit that one despotic will and one standing army should rule the world. That hour, they tell you, Cicero ought to have recognized; that will he ought piously to have hailed in the person of Cæsar, and the person of Antony. And so he mistook the time; and died contending vainly and ungracefully with destiny, and built his monument on sands over which, he should have seen, the tide of the ages was rising already.

But is not such a theory as this, in such an application of personal disparagement as this, about as poor, shallow, heartless, and arrogant a pedantry as any in the whole history of the follies of learning? This judgment of a man's actions, soul, genius, prudence, by the light of events that reveal themselves five hundred or one hundred years after he is in his grave — how long has that been thought just? Because now we are able to see that the struggle of liberty against mailed despotism, — of the senate and people of Rome against the spirit of Cæsar in arms, say rather the spirit of the age, was unavailing, — shall we pronounce in our closets, that a patriot-senator, a man, made consul from the people according to the constitution, bred in the traditions, bathed in the spirit, proud of that high, Roman fashion, of freedom, was a child not to have foreseen it as well? Because he ought to have foreseen it, and did so, was it, therefore, not nobler to die for liberty than to survive her? Is *success* all at once to stand for the test of the excellency of dignity, and the excellency of honor? Be it, that to an intelligence that can take in the ages of time and eternity and the greatest good of a universe of being, the republic might seem to have fulfilled its office, and that it was better the empire should take its place, as the seed cannot quicken except it die; does it follow that we are to love and honor the unconscious human instruments of the dread change more than those who courageously withstood it, — Julius Cæsar, the atheist and traitor; Augustus, the hypocrite;

Antony, the bloody and luxurious, who conquered the constitution, — better than Cato or Catullus, or Brutus or Cicero, who stood round it in its last gasp? Because offences must come, shall not the moral judgments of men denounce the woe against him by whom they come? Easy is it, and tempting for the Merivales and Congreves (I am sorry to see De Quincey in such company) to say the senate and people of Rome were unfit to rule the world they had overrun; and, therefore, it was needful for an emperor and his guard and his legions to step in; easy and tempting is such a speculation, because nobody can disprove it, and it sounds of philosophy, seems to be new. But when they pursue it so far as to see no grandeur in the struggle of free-will with circumstance, and of virtue and conscience with force, and feel no sympathy with the resistance which patriotism desperately attempts against treason, I reject and hoot it incredulously.

How soothing and elevating to turn from such philosophy, falsely so called, to the grand and stirring music of that eloquence — those last fourteen pleadings of Cicero, which he who has not studied knows nothing of the orator, nothing of the patriot — in which the Roman liberty breathed its last. From that purer eloquence, from that nobler orator, the great trial of fire and blood through which the spirit of Rome was passing had burned and purged away all things light, all things gross; the purple robe, the superb attitude and action, the splendid commonplaces of a festal rhetoric, are all laid by; the ungraceful, occasional vanity of adulation, the elaborate speech of the abundant, happy mind, at its ease, all disappear; and instead, what directness, what plainness, what rapidity, what fire, what abnegation of himself, what disdain, what hate of the usurper and the usurpation, what grand, swelling sentiments, what fine raptures of liberty, roll and revel there. How there rise above and from out that impetuous torrent of speech, rushing fervidly, audibly, distinctly, between the peals of that thunder with which, like a guardian divinity, he seems to keep the senate-house, and the forum where the people assembled, unprofaned by the impending tyranny, — how there rise, here and there, those tones, so sweet, so mournful, boding and prophetic of the end. Almost you expect, — when the sublime expostulation

is ended, and the fathers of the republic rise all together from their seats to answer the appeal by a shout in the spirit of the time of Tarquin the Proud, and the Second Punic War, and the ten thousand voices of the multitude are calling the orator to come out from the senate-house and speak to them in the forum, out of doors, to them, also, of the perils and the chances of their freedom, — almost you expect to hear, in the air, as above the temple of the doomed Jerusalem, the awful, distant cry, Let us go hence! let us go hence! The alternative of his own certain death, if the republic fell resisting — what pathos, what dignity, what sincerity, what merit intrinsical, it gives to his brave counsels of resistance!

"Lay hold on this opportunity of our salvation, Conscript Fathers, — by the Immortal Gods I conjure you! — and remember that you are the foremost men here, in the council chamber of the whole earth. Give one sign to the Roman people that even as now they pledge their valor — so you pledge your wisdom to the crisis of the State. But what need that I exhort you? Is there one so insensate as not to understand that if we sleep over an occasion such as this, it is ours to bow our necks to a tyranny not proud and cruel only, but ignominious — but sinful? Do ye not know this Antony? Do ye not know his companions? Do ye not know his whole house — insolent — impure — gamesters — drunkards? To be slaves to such as he, to such as these, were it not the fullest measure of misery, conjoined with the fullest measure of disgrace? If it be so — may the gods avert the omen — that the supreme hour of the republic has come, let us, the rulers of the world, rather fall with honor, than serve with infamy! Born to glory and to liberty, let us hold these bright distinctions fast, or let us greatly die! Be it, Romans, our first resolve to strike down the tyrant and the tyranny. Be it our second to endure all things for the honor and liberty of our country. To submit to infamy for the love of life can never come within the contemplation of a Roman soul! For you, the people of Rome — you whom the gods have appointed to rule the world — for you to own a master, is impious.

"You are in the last crisis of nations. To be free or to

be slaves — that is the question of the hour. By every obligation of man or States it behooves you in this extremity to conquer — as your devotion to the Gods and your concord among yourselves encourage you to hope — or to bear all things but slavery. Other nations may bend to servitude; the birthright and the distinction of the people of Rome is liberty."

Turn, now, to another form of revolution altogether. Turn to a revolution in which a people, who were not yet a nation, became a nation, — one of the great, creative efforts of history, her rarest, her grandest, one of her marked and widely separated geological periods, in which she gathers up the formless and wandering elements of a preëxisting nature, and shapes them into a new world, over whose rising the morning stars might sing again. And these revolutions have an eloquence of their own, also; but how unlike that other, — exultant, trustful, reasonable, courageous. The cheerful and confident voice of young, giant strength rings through it, — the silver clarion of his hope that sounds to an awakening, to an onset, to a festival of glory, preparing! preparing! — his look of fire now fixed on the ground, now straining towards the distant goal; his heart assured and high, yet throbbing with the heightened, irregular pulsations of a new consciousness, beating unwontedly, — the first, delicious, strange feeling of national life.

Twice within a century men have heard that eloquence. They heard it once when, in 1782, Ireland, in arms, had extorted — in part from the humiliation and necessities of England, in part from the justice of a new administration — the independence of her parliament and her judiciary,

> "That one lucid interval snatched from the gloom
> And the madness of ages, when filled with one soul,
> A nation o'erleaped the dark bounds of her doom,
> And for one sacred instant touched liberty's goal," —

and Mr. Grattan, rising slowly in her house of commons, said: "I am now to address a free people; ages have passed away, and this is the first moment in which you could be distinguished by that appellation. I found Ireland on her knees; I watched over her with an eternal solicitude. I have traced her progress from injuries to arms, from arms to liberty.

Spirit of Swift, spirit of Molyneux, your genius has prevailed! Ireland is now a nation. In that character, I hail her; and, bowing to her august presence, I say, Live Forever!"

Men heard that eloquence in 1776, in that manifold and mighty appeal by the genius and wisdom of that new America, to persuade the people to take on the name of nation, and begin its life. By how many pens and tongues that great pleading was conducted; through how many months, before the date of the actual Declaration, it went on, day after day; in how many forms, before how many assemblies, from the village newspaper, the more careful pamphlet, the private conversation, the town-meeting, the legislative bodies of particular colonies, up to the Hall of the immortal old Congress, and the master intelligences of lion heart and eagle eye, that ennobled it,—all this you know. But the leader in that great argument was John Adams, of Massachusetts. He, by concession of all men, ~~was the~~ orator of that revolution,—the revolution in which a nation was born. Other and renowned names, by written or spoken eloquence, coöperated effectively, splendidly, to the grand result,—Samuel Adams, Samuel Chase, Jefferson, Henry, James Otis in an earlier stage. Each of these, and a hundred more, within circles of influence wider or narrower, sent forth, scattering broadcast, the seed of life in the ready, virgin soil. Each brought some specialty of gift to the work; Jefferson, the magic of style, and the habit and the power of delicious dalliance with those large, fair ideas of freedom and equality, so dear to man, so irresistible in that day; Henry, the indescribable and lost spell of the speech of the emotions, which fills the eye, chills the blood, turns the cheek pale,—the lyric phase of eloquence, the "fire-water," as Lamartine has said, of the revolution, instilling into the sense and the soul the sweet madness of battle; Samuel Chase, the tones of anger, confidence, and pride, and the art to inspire them. John Adams's eloquence alone seemed to have met every demand of the time; as a question of right, as a question of prudence, as a question of immediate opportunity, as a question of feeling, as a question of conscience, as a question of historical and durable and innocent glory, he knew it all, through and through; and in that mighty debate, which, beginning in Congress as far back as March or February, 1776, had its close on the second and

on the fourth of July, he presented it in all its aspects, to every passion and affection, — to the burning sense of wrong, exasperated at length beyond control by the shedding of blood; to grief, anger, self-respect; to the desire of happiness and of safety; to the sense of moral obligation, commanding that the duties of life are more than life; to courage, which fears God, and knows no other fear; to the craving of the colonial heart, of all hearts, for the reality and the ideal of country, and which cannot be filled unless the dear native land comes to be breathed on by the grace, clad in the robes, armed with the thunders, admitted an equal to the assembly, of the nations; to that large and heroical ambition which would build States, that imperial philanthropy which would open to liberty an asylum here, and give to the sick heart, hard fare, fettered conscience of the children of the Old World, healing, plenty, and freedom to worship God, — to these passions, and these ideas, he presented the appeal for months, day after day, until, on the third of July, 1776, he could record the result, writing thus to his wife: "Yesterday the greatest question was decided which ever was debated in America; and a greater, perhaps, never was, nor will be, among men."

Of that series of spoken eloquence all is perished; not one reported sentence has come down to us. The voice through which the rising spirit of a young nation sounded out its dream of life is hushed. The great spokesman, of an age unto an age, is dead.

And yet, of those lost words is not our whole America one immortal record and reporter? Do ye not read them, deep cut, defying the tooth of time, on all the marble of our greatness? How they blaze on the pillars of our Union! How is their deep sense unfolded and interpreted by every passing hour! how do they come to life, and grow audible, as it were, in the brightening rays of the light he foresaw, as the fabled invisible harp gave out its music to the morning!

Yes, in one sense, they are perished. No parchment manuscript, no embalming printed page, no certain traditions of living or dead, have kept them. Yet, from out, and from off, all things around us, — our laughing harvests, our songs of labor, our commerce on all the seas, our secure homes, our school-houses and churches, our happy people, our radiant and

stainless flag, — how they come pealing, pealing, Independence now, and Independence forever!

And now, on a review of this series of the most eloquent of the eloquent, and of these opportunities of their renown, does our love deceive us, or have we not ourselves seen and heard, and followed mourning to the grave, one man, who, called to act in a time so troubled and high, would have enacted a part of equal splendor, and won a fame as historical? Our Webster — was there ever yet a cause to be pleaded to an assembly of men on earth to which he would not have approved himself equal? Consider that he was cast on a quiet, civil age, an age, a land, of order, of law, of contentment, of art, of progress by natural growth, of beautiful and healthful material prosperity, resting on an achieved and stable freedom. We saw that ocean only in its calm. But what if the stern north-east had blown on that ocean, or the hurricane of the tropics had vexed its unsounded depths? That mighty reason, that sovereign brow and eye, that majestic port, that fountain of eloquent feeling, of passion, of imagination, — which seems to me to have been in him never completely opened, fathomless as a sea, and like that demanding the breaking up of the monsoon, or the attraction of those vast bodies the lights of the world, to give it to flow, rise, and ebb, — what triumph of eloquence the ages ever witnessed was beyond those marvellous faculties, in their utmost excitement, to achieve?

Assisted by that unequalled organ of speech, the Greek language of Demosthenes, might he not have rolled an equal thunder, and darted an equal flame? — might he not have breathed virtue into the decay of Greece, and turned back for a space the inevitable hour?

The shaken pillars of the old constitution of Roman liberty, the old grand traditions dishonored, the dignity of the senate, the privilege of the people assailed, — would not their last great champion have acknowledged in him an ally worthy of the glorious, falling cause?

And when the transcendent question of our Independence was to be debated, was he not the very man to stand by Adams, and second the motion which has made the illustrious mover immortal? The rights of the colonies in point of law on their charters; the violations of these rights; the larger

rights of man, — the right to liberty and the pursuit of happiness; the right — the conditions, the occasions, of the right — to the national life, — would not he, too, have set these to view transparent, exact, clear as a sunbeam? When reason has convinced, and conscience has instructed, would not that hand, too, have swept with as all-commanding power the chords of the greater passions, — grief, indignation, pride, hope, self-sacrifice, — whose music is at once the inspirer and the utterance of the sublimest moments of history, through which the first voices of the sense and the love of country are breathed?

And then, as the vision of independent America gleamed through the future, would he not already, with a soul as trustful, a trumpet-tone as confident, a voice of prophecy as sure as on that later, festal day, from the Rock of the Pilgrims, bid the distant generations hail? And yet, in that want of grandest opportunities for the effort of his powers, had he large compensation, happier, nor less glorious, when he rose and shone and set on that unclouded sky, and on that wide, deep calm of moral nature, than in soaring, as he would have soared, on all its storms, and wielding, as he would have wielded, all its thunders.

ADDRESS

DELIVERED IN SOUTH DANVERS, AT THE DEDICATION OF THE PEABODY INSTITUTE, SEPTEMBER 29, 1854.

I ESTEEM it a great privilege to have been allowed to unite with my former townsmen, and the friends of so many years, — by whose seasonable kindness the earliest struggles of my professional life were observed and helped, — the friends of all its periods, — so I have found them, — to unite with you in the transaction for which we are assembled. In all respects it is one of rare interest. You have come together to express anew your appreciation of the character and the objects of the giver of this splendid charity, to repeat and republish your grateful acceptance of it, and to dedicate this commodious and beautiful structure to its faithful and permanent administration. You open to-day for Danvers, — its inhabitants of this time, and all its successions, — the Lyceum of knowledge and morality. Under this dedication it shall stand while Massachusetts shall stand. This edifice will crumble, certainly, to be replaced with another; this generation of the first recipients of the gift, — the excellent giver himself, — will soon pass away; but while our social and civil system shall endure; while law shall be administered; while the sentiments of justice, gratitude, and honor, shall beat in one heart on your territory, the charity is immortal.

For every one among you it is set open equally. No fear that the religious opinions he holds sacred will be assailed, or the politics he cultivates insulted, will keep back any from his share of the diffusive good. Other places and other occasions you reserve for dissent and disputation, and struggle for mastery, and the sharp competitions of life. But here shall be peace and reconciliation. Within these walls, the knowledge

and the morality, which are of no creed and no party; which are graceful and profitable for all alike, — of every creed and every party; which are true and real to every mind, as mind, and from the nature of mind, — and to every conscience, as conscience, and from the nature of conscience; and which are the same thing, therefore, in every brain and every heart, — this alone, — knowledge and morality, broad, free, as humanity itself, — is to be inculcated here.

Happy and privileged the community, beyond the measure of New England privilege even, for whom such high educational instrumentalities are thus munificently provided, and made perpetual! Happy especially, if they shall rouse themselves to improve them to their utmost capacity, — if they shall feel that they are summoned by a new motive, and by an obligation unfelt before, to an unaccustomed effort to appropriate to their hearts and their reason, all the countless good which is hidden in knowledge and a right life, — an effort to become — more than before — wise, bright, thoughtful, ingenious, good; to attain to the highest degree of learning which is compatible with the practical system of things of which they are part; to feed the immortal, spiritual nature with an ampler and higher nutrition, enriching memory with new facts, judgment with sounder thoughts, taste with more beautiful images, the moral sense with more of all things whatsoever they are lovely, honest, and of good report, — the reality of virtue, the desert of praise.

Happy, almost, above all, the noble giver, whose heart is large enough to pay, of the abundance which crowns his life, — to pay out of his single means, — the whole debt this generation owes the future. I honor and love him, not merely that his energy, sense, and integrity have raised him from a poor boy — waiting in that shop yonder — to spread a table for the entertainment of princes, — not merely because the brilliant professional career which has given him a position so commanding in the mercantile and social circles of the commercial capital of the world, has left him as completely American — the heart as wholly untravelled — as when he first stepped on the shore of England to seek his fortune, sighing to think that the ocean rolled between him and home; jealous of honor; wakeful to our interests; helping his coun-

try, not by swagger and vulgarity, but by recommending her credit; vindicating her title to be trusted on the exchange of nations; squandering himself in hospitalities to her citizens — a man of deeds, not of words, — not for these merely I love and honor him, but because his nature is affectionate and unsophisticated still; because his memory comes over so lovingly to this sweet Argos, to the schoolroom of his childhood, to the old shop and kind master, and the graves of his father and mother; and because he has had the sagacity, and the character to indulge these unextinguished affections in a gift, not of vanity and ostentation, but of supreme and durable utility.

I have found it quite incompatible with my engagements and health, to methodize the thoughts, which have crowded on my mind in the prospect of meeting you to-day, into anything like elaborate or extended discourse; but I have certainly wished, — instead of mere topics of congratulation; or instead of diffusing myself exclusively on the easy and obvious commonplaces of the utility of knowledge, and the beauty of virtue; or instead of the mere indulgence of those trains of memory and sensibility, to which the spectacle of old friends, and of the children and grandchildren of other friends, "whom my dim eyes in vain explore," almost irrepressively impels me, — instead of this, to submit a practical suggestion or two in regard to the true modes of turning the Lyceum to its utmost account; and then, in regard to the motives you are under to do so. These suggestions I make diffidently; and, therefore, I would not make them at all, but from the conviction that in your hands they may come to assume some little value.

I take it for granted that the declared wishes of Mr. Peabody will be considered as determining, quite peremptorily, the general mode of administering this fund. Better educational instrumentalities, indeed, no man's wisdom, in the circumstances, could have devised. Courses of lectures, then, and a library of good books, these are to form the means of the Lyceum; and the problem is, in what way can you make the most of them.

It may seem a little exaggerated at its first statement, and perhaps alarming, but it will serve at least to introduce my more particular ideas, to say that the *true view for you to take of this large provision of mental means, and of your relations*

to it, is to regard yourselves as having become by its bestowment permanently the members of an institution which undertakes to teach you by lectures and a library. Herein exactly is the peculiarity of your new privilege. You are no longer, as heretofore it has been with you, merely to be indulged the opportunity of a few evenings in a year to listen, for the amusement of it, to half a dozen discourses of as many different speakers, on as many totally disconnected topics, treated possibly for ostentation, and adapted only to entertain, — but, however treated, and whatever fit for, totally forgotten in an hour; preceded, followed up, and assisted, by no preparation and no effort of the hearer; giving no direction whatever to his thoughts or readings; separated from each other, even while the lyceum season lasts, by a week of labor, devoted, even in its leisure moments, to trains of thought or snatches of reading wholly unauxiliar and irrelative, and for nine months or ten months of the year totally discontinued. Thanks to this munificence, you are come to the fruition of far other opportunities. An institution of learning, in the justest sense of the term, is provided for you. Lectures are to be delivered for you through a far larger portion of the year; a library, which will assuredly swell to thousands of volumes, is to be accumulated under your eye, from which you may derive the means of accompanying any lecturer on any subject from evening to evening; and this system of provision is permanent, — henceforth part and parcel, through its corporate existence, of the civil identity and privilege of Danvers. You enter, therefore, to-day — you may enter — a new and important school; as durably such, as truly such, — having regard to differences of circumstantial details, — as the Seminary at Andover, or the Law School at Cambridge, or the College of Medicine at Philadelphia, — all of them schools, too, and all teaching by lectures and a library.

Setting out with this idea, let me say a word on the lectures of this school, — what they should be, and how they should be heard, assisted, and turned to account by those who hear them. And I submit to the trustees of the charity to reflect, whether a succession of such discourses as I have indicated, on disconnected topics, by different speakers, — however brilliant and able the individual performer may be, — will, in the long run,

yield the good, or any approximation to the good, which would be derived from courses of lectures more or less extended, like the Lowell Lectures of Boston, each by a single person, devoted to the more exact and thorough treatment of a single important subject.

Consider that the diffusion of knowledge among you is the aim of the founder. The imparting of knowledge is the task which he sets his lecturer to do; and of knowledge in any proper sense, — knowledge within the legal meaning of this charity, — how much can he impart who comes once in a year, once in a lifetime, perhaps, before his audience, a stranger, addresses it an hour, and goes his way? He can teach little, if he tries; and the chances are infinite, that to teach that little he will not try. The temptations and the tendencies of that system of exhibition are irresistible, to make him despair of conveying knowledge, and devote himself to producing effect; to select some topic mainly of emotional or imaginative capability; and even then to sacrifice the beauty which is in truth, to the counterfeit presentment which mocks it in glitter, exaggeration, ingenuity, and intensity. If he would spend his hour in picking up and explaining a shell or pebble from the shore of the ocean of knowledge, it were something; but that seems unworthy of himself, and of the expectations which await him, and up he soars, or down he sinks, to rhetoric or bathos; and when his little part is best discharged, it is not much more than the lovely song of one who hath a pleasant voice, and can play well upon an instrument.

I do not say that such lectures are hurtful. I do not deny them a certain capacity of usefulness. I do not say they are not all which you should look for in our lyceums, as ordinarily they are constituted. They are all which, for the present, you will yourselves, perhaps, be able to provide. But to an endowed and durable foundation like this, they are totally inapplicable. They would be no more nor less, after you shall be completely organized, than a gross abuse of the charity, and violation of the will, of the giver. It is not merely that they would teach no knowledge, and would not assume to do it, and that the nature and laws of that kind of composition, and the conditions of its existence, totally exclude such a function. It goes further than that. The relations between teacher and

pupil, under such a system, never exist at all. The audience never think of coming before the lecturer to have the truths of the last lecture retouched, and new ones deduced or added; to have the difficulties, of which they have been thinking since they heard him before, resolved; to ask questions; to be advised what authors to read, or what experiments to undertake, on the subject he is illustrating. They carry no part of his sermon into the week with them; and he never knows or asks whether they do or not. In the nature of things, this all must be so. It is of the essential conception of knowledge, as the founder here uses the word, — knowledge as applicable to anything, — that it includes many particulars of fact or idea, arranged by method, that is, arranged according to their true relations.

Whatever it be on which knowledge is to be imparted, — whether one of the phenomena of nature, as vegetable life, or insensible motion, or the periods of the stars; or some great aspect of humanity, as the history of a renowned age or event, pregnant of a stupendous future, or a marked man of the heroic and representative type; or one of the glorious productions of mind, as a constitution of free government, or a union of states into one nationality, a great literature, or even a great poem, — whatever it be, that which makes up the consummate knowledge of it is at once so much a unity and an infinity, — it unfolds itself into so many particulars, one deduced from another by series ever progressive, one modifying another, every one requiring to be known in order that any one may be exactly known, — that if you mean to teach it by lectures at all, you must substitute a totally different system. *It must be done by courses continuously delivered, and frequently, by the same person, and having for their object to achieve the exact and exhaustive treatment of something,* — some science, some art, some age, some transaction, that changed the face of fortune and history, — something worthy to be completely known. He whom you call to labor on this foundation must understand that it is knowledge which is demanded of him. He must assure himself that he is to have his full time to impart it. He must come to the work, appreciating that he is not to be judged by the brilliancy or dulness of one passage, or one evening; but that he must

stand or fall by the mass and aggregate of his teachings. He is to feel that he is an instructor, not the player of a part on a stage; that he is to teach truth, and not cut a rhetorical caper; enthusiastic in the pursuit, exact and veracious as a witness under oath in the announcement. I would have him able to say of the subject which he treats, what Cousin said of philosophy in the commencement of one of his celebrated courses, after a long interruption by the instability of the government of France: "Devoted entirely to it, after having had the honor to *suffer a little in its service*, I come to *consecrate to its illustration, unreservedly*, all that remains to me of strength and of life."

And, now, how are you to hear such courses of lectures? Essentially by placing yourselves in the relation of pupils to the lecturer. For the whole period of his course, let the subject he teaches compose the study of the hours, or fragments of hours which you give to study at all. You would read something, on some topic, every day, in all events. Let that reading, less or more, relate exclusively or mainly to the department of knowledge on which you go to hear him. If he knows his business, he will recommend all the best books pertaining to that department, and on these the first purchases for the Library will be quite likely in part to be expended. Attend the instructions of his lips by the instruction of the printed treatise. In this way only can you, by any possibility, avail yourselves at once of all that books and teachers can do. In this way only can you make one coöperate with the other. In this way only — in a larger view — can you rationally count on considerable and ever-increasing acquisitions of knowledge. Remember that your opportunities for such attainments in this school, after all, are to be few and brief. You and I are children of labor at last. The practical, importunate, ever-recurring duties of the calling to which we are assigned must have our best of life. What are your vacations, or mine, from work, for the still air of delightful studies? They are only divers infinitely minute particles of time, — half-hours before the morning or midday meal is quite ready, — days, now and then, not sick enough for the physician nor well enough for work, — a rainy afternoon, — the priceless evening, when the long task is done, — these snatches and interstitial spaces — moments literal and

fleet — these are all the chances that we can borrow or create for the luxury of learning. How difficult it is to arrest these moments, to aggregate them, to till them, as it were, to make them day by day extend our knowledge, refine our tastes, accomplish our whole culture, to scatter in them the seed that shall grow up, as Jeremy Taylor has said, "to crowns and sceptres" of a true wisdom, — how difficult is this we all appreciate. To turn them to any profit at all, we must religiously methodize them. Desultory reading and desultory revery are to be forever abandoned. A page in this book, and another in that — ten minutes thought or conversation on this subject, and the next ten on that — this strenuous and specious idleness is not the way by which our intervals of labor are to open to us the portals of the crystal palace of truth. Such reading, too, and such thinking are an indulgence by which the mind loses its power — by which curiosity becomes sated, ennui supervenes, and the love of learning itself is irrevocably lost. Therefore, I say, methodize your moments. Let your reading be systematic ever, so that every interval of rest shall have its book provided for it; and during the courses of your lectures, let those books treat the topics of the course.

Let me illustrate my meaning. You are attending, I will say, a course on astronomy, consisting of two lectures in a week, for two months. Why should you not regard yourselves for these two months as students of astronomy, so far as you can study anything, or think of anything, outside of your business; and why not determine to know nothing else; but to know as much of that as you can, for all that time? Consider what this would involve, and what it might accomplish. Suppose that you, by strenuous and persistent effort, hold that one subject fully in view for so long a period; that you do your utmost to turn your thoughts and conversation on it; that you write out the lecture, from notes or memory, as soon as it is given, and reperuse and master it before you hear the next; that you read, not on other parts of the science, but on the very parts which the lecturer has arrived at and is discussing; that you devote an hour each evening to surveying the architecture of the heavens for yourselves, seeking to learn, not merely to indulge a vague and wandering sort of curiosity,

or even a grand, but indistinct and general emotion, as if listening to imaginary music of spheres, but to aspire to the science of the stars, to fix their names, to group them in classes and constellations, to trace their paths, their reciprocal influence, their courses everlasting, — suppose that thus, and by voluntary continuous exertion, you concentrate on one great subject, for so considerable a period, all the moments of time and snatches of hasty reading and opportunities of thought that otherwise would have wasted themselves everywhere, and gone off by insensible evaporation, — do you not believe that it would tell decisively upon your mental culture and your positive attainments? Would not the effort of attention so prolonged and exclusive be a discipline itself inestimable? Would not the particulars of so much well-systematized reading and thought arrange themselves in your minds in the form of science, — harder to forget than to remember? and might you not hope to begin to feel the delicious sensations implied in growing consciously in the knowledge of truth?

I have taken for granted, in these thoughts on the best mode of administering the charity, that your own earnest purpose will be to turn it, by some mode, to its utmost account. The gratitude and alacrity with which you accepted the gift show quite well how you appreciate the claims of knowledge and the dignity of mental culture, and what value you set upon this rare and remarkable appropriation to uses so lofty. I have no need, therefore, to exhort you to profit of these opportunities; but there are one or two views on which I have formerly reflected somewhat, and which I will briefly lay before you.

It is quite common to say, and much more common to think, without saying it aloud, that mental culture and learning, above the elements, may well claim a high place, as luxuries and indulgence, and even a grand utility, for those whose condition allows them a lifetime for such luxury and such indulgence, and the appropriation of such a good; but that for labor — properly so called — they can do little, even if labor could pause to acquire them. Not so has the founder of this charity reasoned; nor so will you. He would say, and so do I, — Seek for mental power, and the utmost practicable

love and measure of knowledge, exactly because they will do so much for labor; first, to inform and direct its exertions; secondly, to refine and adorn it, and disengage it from too absolute an immersion in matter, and bring it into relation to the region of ideas and spirituality and abstraction; and, thirdly, to soothe its fatigues and relieve its burdens and compose its discontent.

True is it, of all our power, eminence, and consideration, as of our existence, that the condition is labor. Our lot is labor. There is no reversal of the doom of man for us. But is that a reason why we should not aspire to the love and attainment of learning, and to the bettering of the mind? For that very reason we should do so. Does not the industry of a people at last rest upon and embody the intellect of the people? Is not its industry as its intellect?

I say, then, forasmuch as we are children of labor, cultivate mental power. Pointing the friends of humanity, and of America, to this charity, I say to them, go and do likewise. Diffuse mental power. Give it to more than have it now. Give it in a higher degree. Give it in earlier life. Think how stupendous, yet how practicable it were to make, by an improved popular culture, the entire laborious masses of New England more ingenious, more inventive, more prudent than now they are. How much were effected, — how much for power; how much for enjoyment; how much for a true glory, — by this accession to the quality of its mind. It would show itself in half a century in every acre of her surface. In the time it would save, in the strength it would impart, in the waste it would prevent, in the more sedulous husbandry of all the gifts of God, in richer soils, created or opened; in the great coöperating forces of nature — air, water, steam, fertility — yoked in completer obedience to the car of labor; in the multiplicity of useful inventions, those unfailing exponents, as well as promoters, of popular mental activity and reach; in the aggregate of production, swelled, diversified, enriched; in the refluent wave of wealth, subsiding here and there in reservoirs, in lakes, in springs perennial, but spread, too, everywhere in rills and streamlets, and falling in the descent of dew and the dropping of the cloud,—in these things you would see the peaceful triumphs of an improved

mind. Nor in these alone, or chiefly. More beautiful far, and more precious, would they beam abroad in the elevation of the standard of comfortable life; in the heightened sense of individual responsibility and respectability, and a completer individual development; in happier homes; in better appreciation of the sacredness of property, and the sovereignty of justice in the form of law; in more time found and better prized, when the tasks of the day were all well done, — more time found and better prized for the higher necessities of the intellect and soul.

I have not time to dwell now on the second reason, by which I suggested that labor should be persuaded to seek knowledge, though it would well deserve a fuller handling. You find that reason in the tendency of culture and learning to refine the work-day life, and adorn it; to disengage it from the contacts of matter, and elevate it to the sphere of ideas and abstraction and spirituality; to withdraw, as Dr. Johnson has said, — "to withdraw us from the power of our senses; to make the past, the distant, or the future predominate over the present, and thus to advance us in the dignity of thinking beings." Surely we need not add a self-inflicted curse to that which punished the fall. To earn our bread in the sweat of our brow is ordained to us certainly; but not, therefore, to forget in whose image we were made, nor to suffer all beams of the original brightness to go out. Who has doomed us, or any of us, to labor so exclusive and austere, that only half, the lower half, of our nature can survive it? The unrest of avarice, or ambition, or vanity, may do it; but no necessity of our being, and no appointment of its author. Shall we, of our own election, abase ourselves? Do you feel that the mere tasks of daily labor ever employ the whole man? Have you not a conscious nature, other and beside that which tills the earth, drives the plane, squares the stone, creates the fabric of art, — a nature intellectual, spiritual, moral, capacious of science, capacious of truth beyond the sphere of sense, with large discourse of reason, looking before and after, and taking hold on that within the veil?

What forbids that this nature shall have its daily bread also day by day? What forbids that it have time to nourish its sympathy with all kindred human blood, by studying the grand

facts of universal history; to learn to look beyond the chaotic flux and reflux of mere appearances, which are the outside of the world around it, into their scientific relations and essential quality; to soar from effects to causes, and through causes to the first; to begin to recognize and to love, here and now, in waning moon or star of evening, or song of solemn bird, or fall of water, or "self-born carol of infancy," or transcendent landscape, or glorious self-sacrifice — to begin to recognize and love in these, that beauty here which shall be its dwelling-place and its vesture in the life to come; to accustom itself to discern, in all vicissitudes of things, the changed and falling leaf, the golden harvest, the angry sigh of November's wind, the storm of snow, the temporary death of nature, the opening of the chambers of the South, and the unresting round of seasons — to discern not merely the sublime circle of eternal change, but the unfailing law, flowing from the infinite Mind, and the "varied God" — filling and moving, and in all things, yet personal and apart? What forbids it to cultivate and confirm

> "The glorious habit by which sense is made
> Subservient still to moral purposes,
> Auxiliar to divine?"

What forbids that it grow

> "Accustomed to desires that feed
> On fruitage gathered from the Tree of Life?"

I do not say that every man, even in a condition of competence, can exemplify this nobler culture and this rarer knowledge. But I will say that the exactions of labor do not hinder it. Recall a familiar, though splendid and remarkable instance or two.

Burns reaped as much and as well as the duller companion by his side, and meantime was conceiving an immortal song of Scotland; and Hugh Miller was just as painstaking a stone-mason and as good a workman as if he had not so husbanded his spare half-hours and moments as to become, while an apprentice and journeyman, a profound geologist and master of a clear and charming English style. But how much more a man was the poet and the geologist; how far fuller the consciousness of being; how much larger the daily draught of that

admiration, hope, and love, which are the life and voice of souls!

I come to add the final reason why the working man, by whom I mean the whole brotherhood of industry, should set on mental culture and that knowledge which is wisdom a value so high — only not supreme — subordinate alone to the exercises and hopes of religion itself. And that is, that therein he shall so surely find rest from labor; succor under its burdens; forgetfulness of its cares, composure in its annoyances. It is not always that the busy day is followed by the peaceful night. It is not always that fatigue wins sleep. Often some vexation outside of the toil that has exhausted the frame, some loss in a bargain, some loss by an insolvency, some unforeseen rise or fall of prices, some triumph of a mean or fraudulent competitor,

> "The oppressor's wrong, the proud man's contumely,
> The pangs of despised love, the law's delay,
> The insolence of office, and the spurns
> That patient merit of the unworthy takes,"

some self-reproach, perhaps, follow you within the door, chill the fireside, sow the pillow with thorns, and the dark care is last in the last waking thought, and haunts the vivid dream. Happy, then, is he who has laid up in youth, and held fast in all fortune, a genuine and passionate love of reading. True balm of hurt minds; of surer and more healthful charm than "poppy or mandragora, or all the drowsy syrups of the world," by that single taste, — by that single capacity, he may bound in a moment into the still region of delightful studies, and be at rest. He recalls the annoyance that pursues him; reflects that he has done all that might become a man to avoid or bear it; he indulges in one good, long, human sigh, picks up the volume where the mark kept his place, and in about the same time that it takes the Mahometan in the Spectator to put his head in the bucket of water, and raise it out, he finds himself exploring the arrow-marked ruins of Nineveh with Layard; or worshipping at the spring-head of the stupendous Missouri, with Clark and Lewis; or watching with Columbus for the sublime moment of the rising of the curtain from before the great mystery of the sea; or looking reverentially on while Socrates — the discourse of

immortality ended — refuses the offer of escape, and takes in his hand the poison to die in obedience to the unrighteous sentence of the law; or, perhaps, it is in the contemplation of some vast spectacle or phenomenon of nature that he has found his quick peace — the renewed exploration of one of her great laws — or some glimpse opened by the pencil of St. Pierre, or Humboldt, or Chateaubriand, or Wilson, of the "blessedness and glory of her own deep, calm, and mighty existence."

Let the case of a busy lawyer testify to the priceless value of the love of reading. He comes home, his temples throbbing, his nerves shattered, from a trial of a week; surprised and alarmed by the charge of the judge, and pale with anxiety about the verdict of the next morning, not at all satisfied with what he has done himself, though he does not yet see how he could have improved it; recalling with dread and self-disparagement, if not with envy, the brilliant effort of his antagonist, and tormenting himself with the vain wish that he could have replied to it — and altogether a very miserable subject, and in as unfavorable a condition to accept comfort from wife and children as poor Christian in the first three pages of the Pilgrim's Progress. With a superhuman effort he opens his book, and in the twinkling of an eye he is looking into the full "orb of Homeric or Miltonic song," or he stands in the crowd — breathless, yet swayed as forests or the sea by winds — hearing and to judge the Pleadings for the Crown; or the philosophy which soothed Cicero or Boethius in their afflictions, in exile, prison, and the contemplation of death, breathes over his petty cares like the sweet south; or Pope or Horace laughs him into good humor; or he walks with Æneas and the Sibyl in the mild light of the world of the laurelled dead; and the court-house is as completely forgotten as the dreams of a pre-adamite life. Well may he prize that endeared charm, so effectual and safe, without which the brain had long ago been chilled by paralysis, or set on fire of insanity!

To these uses and these enjoyments, to mental culture and knowledge and morality, the guide, the grace, the solace of labor on all his fields, we dedicate this charity! May it bless you in all your successions! and may the admirable giver sur-

vive to see that the debt which he recognizes to the future is completely discharged; survive to enjoy in the gratitude and love and honor of this generation, the honor and love and gratitude with which the latest will assuredly cherish his name, and partake and transmit his benefaction!

REMARKS BEFORE THE CIRCUIT COURT ON THE DEATH OF MR. WEBSTER.

[Mr. Webster died on Sunday morning, October 24, 1852. The members of the Suffolk Bar met on Monday morning, and appointed a committee to report a series of resolutions. These were read and adopted at an adjourned meeting, Thursday, October 28th, and immediately presented to the Circuit Court of the United States for the District of Massachusetts, CURTIS and SPRAGUE, Justices, on the Bench. They were read by the Hon. George S. Hillard, after which Mr. Choate made the following remarks.]

MAY IT PLEASE YOUR HONORS: —

I HAVE been requested by the members of the Bar of this Court to add a few words to the resolutions just read, in which they have embodied, as they were able, their sorrow for the death of their beloved and illustrious member and countryman, Mr. Webster; their estimation of his character, life, and genius; their sense of the bereavement, — to the country as to his friends, — incapable of repair; the pride, the fondness, — the filial and the patriotic pride and fondness, — with which they cherish, and would consign to history to cherish, the memory of a great and good man.

And yet, I could earnestly have desired to be excused from this duty. He must have known Mr. Webster less, and loved him less, than your honors or than I have known and loved him, who can quite yet, — quite yet, — before we can comprehend that we have lost him forever, — before the first paleness with which the news of his death overspread our cheeks has passed away, — before we have been down to lay him in the Pilgrim soil he loved so well, till the heavens be no more, — he must have known and loved him less than we have done, who can come here quite yet, to recount the series of his ser-

vice, to display with psychological exactness the traits of his nature and mind, to ponder and speculate on the secrets — on the marvellous secrets — and source of that vast power, which we shall see no more in action, nor aught in any degree resembling it, among men. These first moments should be given to grief. It may employ, it may promote a calmer mood, to construct a more elaborate and less unworthy memorial.

For the purposes of this moment and place, indeed, no more is needed. What is there for this Court or for this Bar to learn from me, here and now, of him? The year and the day of his birth; that birthplace on the frontier, yet bleak and waste; the well, of which his childhood drank, dug by that father of whom he has said, "that through the fire and blood of seven years of revolutionary war he shrank from no danger, no toil, no sacrifice, to serve his country, and to raise his children to a condition better than his own;" the elm-tree that father planted, fallen now, as father and son have fallen; that training of the giant infancy on catechism and Bible, and Watts's version of the Psalms, and the traditions of Plymouth, and Fort William Henry, and the Revolution, and the age of Washington and Franklin, on the banks of the Merrimack, flowing sometimes in flood and anger, from his secret springs in the crystal hills; the two district schoolmasters, Chase and Tappan; the village library; the dawning of the love and ambition of letters; the few months at Exeter and Boscawen; the life of college; the probationary season of school-teaching; the clerkship in the Fryeburg Registry of Deeds; his admission to the bar, presided over by judges like Smith, illustrated by practisers such as Mason, where, by the studies, in the contentions of nine years, he laid the foundation of the professional mind; his irresistible attraction to public life; the oration on commerce; the Rockingham resolutions; his first term of four years' service in Congress, when, by one bound, he sprang to his place by the side of the foremost of the rising American statesmen; his removal to this State; and then the double and parallel current in which his life, studies, thoughts, cares, have since flowed, bearing him to the leadership of the Bar by universal acclaim, bearing him to the leadership of public life, — last of that surpassing triumvirate, shall we say the greatest, the most widely known and admired? — all these

things, to their minutest details, are known and rehearsed familiarly. Happier than the younger Pliny, happier than Cicero, he has found his historian, unsolicited, in his lifetime, and his countrymen have him all by heart!

There is, then, nothing to tell you, — nothing to bring to mind. And then, if I may borrow the language of one of his historians and friends, — one of those through whose beautiful pathos the common sorrow uttered itself yesterday, in Faneuil Hall, — "I dare not come here and dismiss in a few summary paragraphs the character of one who has filled such a space in the history, one who holds such a place in the heart, of his country. It would be a disrespectful familiarity to a man of his lofty spirit, his great soul, his rich endowments, his long and honorable life, to endeavor thus to weigh and estimate them," — a half-hour of words, a handful of earth, for fifty years of great deeds, on high places!

But, although the time does not require anything elaborated and adequate, — forbids it, rather, — some broken sentences of veneration and love may be indulged to the sorrow which oppresses us.

There presents itself, on the first and to any observation of Mr. Webster's life and character, a twofold eminence, — eminence of the very highest rank, — in a twofold field of intellectual and public display, — the profession of the law and the profession of statesmanship, — of which it would not be easy to recall any parallel in the biography of illustrious men.

Without seeking for parallels, and without asserting that they do not exist, consider that he was, by universal designation, the leader of the general American Bar; and that he was, also, by an equally universal designation, foremost of her statesmen living at his death; inferior to not one who has lived and acted since the opening of his own public life. Look at these aspects of his greatness separately, and from opposite sides of the surpassing elevation. Consider that his single career at the bar may seem to have been enough to employ the largest faculties, without repose, for a lifetime; and that, if then and thus the "*infinitus forensium rerum labor*" should have conducted him to a mere professional reward, — a bench of chancery or law, the crown of the first of advocates, *jurisperitorum eloquentissimus*, — to the pure and mere honors of

a great magistrate,—that that would be as much as is allotted to the ablest in the distribution of fame. Even that half, if I may say so, of his illustrious reputation — how long the labor to win it, how worthy of all that labor! He was bred first in the severest school of the common law, in which its doctrines were expounded by Smith, and its administration shaped and directed by Mason, and its foundation principles, its historical sources and illustrations, its connection with the parallel series of statutory enactments, its modes of reasoning, and the evidence of its truths, he grasped easily and completely; and I have myself heard him say, that for many years while still at that bar, he tried more causes, and argued more questions of fact to the jury than perhaps any other member of the profession anywhere. I have heard from others how, even then, he exemplified the same direct, clear, and forcible exhibition of proofs, and the reasonings appropriate to proofs, as well as the same marvellous power of discerning instantly what we call the decisive points of the cause in law and fact, by which he was later more widely celebrated. This was the first epoch in his professional training.

With the commencement of his public life, or with his later removal to this State, began the second epoch of his professional training, conducting him through the gradation of the national tribunals to the study and practice of the more flexible, elegant, and scientific jurisprudence of commerce and of chancery, and to the grander and less fettered investigations of international, prize, and constitutional law, and giving him to breathe the air of a more famous forum, in a more public presence, with more variety of competition, although he never met abler men, as I have heard him say, than some of those who initiated him in the rugged discipline of the Courts of New Hampshire; and thus, at length, by these studies, these labors, this contention, continued without repose, he came, now many years ago, to stand *omnium assensu* at the summit of the American Bar.

It is common and it is easy, in the case of all in such position, to point out other lawyers, here and there, as possessing some special qualification or attainment more remarkably, perhaps, because more exclusively, — to say of one that he has more cases in his recollection at any given moment, or that he

was earlier grounded in equity, or has gathered more black letter or civil law, or knowledge of Spanish or of Western titles, — and these comparisons were sometimes made with him. But when you sought a counsel of the first rate for the great cause, who would most surely discern and most powerfully expound the exact law, required by the controversy, in season for use; who could most skilfully encounter the opposing law; under whose powers of analysis, persuasion and display, the asserted right would assume the most probable aspect before the intelligence of the judge; who, if the inquiry became blended with or resolved into facts, could most completely develop and most irresistibly expose them; one "the law's whole thunder born to wield," — when you sought such a counsel, and could have the choice, I think the universal profession would have turned to him. And this would be so in nearly every description of cause, in any department. Some able men wield civil inquiries with a peculiar ability; some criminal. How lucidly and how deeply he elucidated a question of property, you all know. But then, with what address, feeling, pathos, and prudence he defended, with what dignity and crushing power, *accusatorio spiritu*, he prosecuted the accused of crime, whom he believed to have been guilty, few have seen; but none who have seen can ever forget it.

Some scenes there are, some Alpine eminences rising above the high table-land of such a professional life, to which, in the briefest tribute, we should love to follow him. We recall that day, for an instance, when he first announced, with decisive display, what manner of man he was, to the Supreme Court of the Nation. It was in 1818, and it was in the argument of the case of Dartmouth College. William Pinkney was recruiting his great faculties, and replenishing that reservoir of professional and elegant acquisition, in Europe. Samuel Dexter, "the honorable man, and the counsellor, and the eloquent orator," was in his grave. The boundless old-school learning of Luther Martin; the silver voice and infinite analytical ingenuity and resources of Jones; the fervid genius of Emmett pouring itself along *immenso ore;* the ripe and beautiful culture of Wirt and Hopkinson — the steel point, unseen, not unfelt, beneath the foliage; Harper himself, statesman as well as lawyer, — these, and such as these, were left

of that noble bar. That day Mr. Webster opened the cause of Dartmouth College to a tribunal unsurpassed on earth in all that gives illustration to a bench of law, not one of whom any longer survives.

One would love to linger on the scene, when, after a masterly argument of the law, carrying, as we may now know, conviction to the general mind of the court, and vindicating and settling for his lifetime his place in that forum, he paused to enter, with an altered feeling, tone, and manner, with these words, on his peroration: "I have brought my *Alma Mater* to this presence, that, if she must fall, she may fall in her robes and with dignity;" and then broke forth in that strain of sublime and pathetic eloquence, of which we know not much more than that, in its progress, Marshall,— the intellectual, the self-controlled, the unemotional, — announced, visibly, the presence of the unaccustomed enchantment.

Other forensic triumphs crowd on us, in other competition, with other issues. But I must commit them to the historian of constitutional jurisprudence.

And now, if this transcendent professional reputation were all of Mr. Webster, it might be practicable, though not easy, to find its parallel elsewhere, in our own, or in European or classical biography.

But, when you consider that, side by side with this, there was growing up that other reputation, — that of the first American statesman; that, for thirty-three years, and those embracing his most Herculean works at the bar, he was engaged as a member of either House, or in the highest of the executive departments, in the conduct of the largest national affairs, in the treatment of the largest national questions, in debate with the highest abilities of American public life, conducting diplomatic intercourse in delicate relations with all manner of foreign powers, investigating whole classes of truths, totally unlike the truths of the law, and resting on principles totally distinct, — and that here, too, he was wise, safe, controlling, trusted, the foremost man; that Europe had come to see in his life a guaranty for justice, for peace, for the best hopes of civilization, and America to feel surer of her glory and her safety as his great arm enfolded her, — you see how rare, how solitary, almost, was the actual greatness! Who, anywhere, has won,

as he had, the double fame, and worn the double wreath of Murray and Chatham, of Dunning and Fox, of Erskine and Pitt, of William Pinkney and Rufus King, in one blended and transcendent superiority?

I cannot attempt to grasp and sum up the aggregate of the service of his public life at such a moment as this; and it is needless. That life comprised a term of more than thirty-three years. It produced a body of performance, of which I may say, generally, it was all which the first abilities of the country and time, employed with unexampled toil, stimulated by the noblest patriotism, in the highest places of the State, in the fear of God, in the presence of nations, could possibly compass.

He came into Congress after the war of 1812 had begun, and though probably deeming it unnecessary, according to the highest standards of public necessity, in his private character, and objecting, in his public character, to some of the details of the policy by which it was prosecuted, and standing by party ties in general opposition to the administration, he never breathed a sentiment calculated to depress the tone of the public mind, to aid or comfort the enemy, to check or chill the stirrings of that new, passionate, unquenchable spirit of nationality, which then was revealed, or kindled to burn till we go down to the tombs of States.

With the peace of 1815 his more cherished public labors began; and thenceforward he devoted himself, — the ardor of his civil youth, the energies of his maturest manhood, the autumnal wisdom of the ripened year, — to the offices of legislation and diplomacy; of preserving the peace, keeping the honor, establishing the boundaries, and vindicating the neutral rights of his country; restoring a sound currency, and laying its foundation sure and deep; in upholding public credit; in promoting foreign commerce and domestic industry; in developing our uncounted material resources, — giving the lake and the river to trade, — and vindicating and interpreting the constitution and the law. On all these subjects, — on all measures practically in any degree affecting them, — he has inscribed his opinions and left the traces of his hand. Everywhere the philosophical and patriot statesman and thinker will find that he has been before him, lighting the way, sounding the abyss.

His weighty language, his sagacious warnings, his great maxims of empire, will be raised to view, and live to be deciphered when the final catastrophe shall lift the granite foundation in fragments from its bed.

In this connection I cannot but remark to how extraordinary an extent had Mr. Webster, by his acts, words, thoughts, or the events of his life, associated himself forever in the memory of all of us with every historical incident, or, at least, with every historical epoch, with every policy, with every glory, with every great name and fundamental institution, and grand or beautiful image, which are peculiarly and properly American. Look backwards to the planting of Plymouth and Jamestown; to the various scenes of colonial life in peace and war; to the opening and march and close of the revolutionary drama; to the age of the constitution; to Washington and Franklin and Adams and Jefferson; to the whole train of causes, from the reformation downwards, which prepared us to be republicans; to that other train of causes which led us to be unionists, — look round on field, workshop, and deck, and hear the music of labor rewarded, fed, and protected; look on the bright sisterhood of the States, each singing as a seraph in her motion, yet blending in a common harmony, — and there is nothing which does not bring him by some tie to the memory of America. We seem to see his form and hear his deep, grave speech everywhere. By some felicity of his personal life; by some wise, deep, or beautiful word, spoken or written; by some service of his own, or some commemoration of the services of others, it has come to pass that "our granite hills, our inland seas, and prairies, and fresh, unbounded, magnificent wilderness," our encircling ocean, the Rock of the Pilgrims, our new-born sister of the Pacific, our popular assemblies, our free schools, all our cherished doctrines of education, and of the influence of religion, and material policy, and the law, and the constitution, give us back his name. What American landscape will you look on, what subject of American interest will you study, what source of hope or of anxiety, as an American, will you acknowledge, that does not recall him!

I shall not venture, in this rapid and general recollection of Mr. Webster, to attempt to analyze that intellectual power

which all admit to have been so extraordinary, or to compare or contrast it with the mental greatness of others, in variety or degree, of the living or the dead; or even to attempt to appreciate, exactly, and in reference to canons of art, his single attribute of eloquence. Consider, however, the remarkable phenomenon of excellence in three unkindred, one might have thought, incompatible forms of public speech, — that of the forum, with its double audience of bench and jury, of the halls of legislation, and of the most thronged and tumultuous assemblies of the people.

Consider, further, that this multiform eloquence, exactly as his words fell, became at once so much accession to permanent literature, in the strictest sense, solid, attractive, and rich, and ask how often in the history of public life such a thing has been exemplified. Recall what pervaded all these forms of display, and every effort in every form, — that union of naked intellect, in its largest measure, which penetrates to the exact truth of the matter in hand, by intuition or by inference, and discerns everything which may make it intelligible, probable, or credible to another, with an emotional and moral nature profound, passionate, and ready to kindle, and with an imagination enough to supply a hundred-fold more of illustration and aggrandizement than his taste suffered him to accept; that union of greatness of soul with depth of heart, which made his speaking almost more an exhibition of character than of mere genius; the style, not merely pure, clear Saxon, but so constructed, so numerous as far as becomes prose, so forcible, so abounding in unlabored felicities; the words so choice; the epithet so pictured; the matter absolute truth, or the most exact and specious resemblance the human wit can devise; the treatment of the subject, if you have regard to the kind of truth he had to handle, — political, ethical, legal, — as deep, as complete as Paley's, or Locke's, or Butler's, or Alexander Hamilton's, of their subjects; yet that depth and that completeness of sense, made transparent as through crystal waters, all embodied in harmonious or well-composed periods, raised on winged language, vivified, fused, and poured along in a tide of emotion, fervid, and incapable to be withstood; recall the form, the eye, the brow, the tone of voice, the presence of the intellectual king of men, — recall him thus, and, in the lan-

guage of Mr. Justice Story, commemorating Samuel Dexter, we may well "rejoice that we have lived in the same age, that we have listened to his eloquence, and been instructed by his wisdom."

I cannot leave the subject of his eloquence without returning to a thought I have advanced already. All that he has left, or the larger portion of all, is the record of spoken words. His works, as already collected, extend to many volumes,—a library of reason and eloquence, as Gibbon has said of Cicero's,—but they are volumes of speeches only, or mainly; and yet, who does not rank him as a great American author? an author as truly expounding, and as characteristically exemplifying, in a pure, genuine, and harmonious English style, the mind, thought, point of view of objects, and essential nationality of his country as any other of our authors, professedly so denominated? Against the maxim of Mr. Fox, his speeches read well, and yet were good speeches,—great speeches,—in the delivery. For so grave were they, so thoughtful and true, so much the eloquence of reason at last, so strikingly always they contrived to link the immediate topic with other and broader principles, ascending easily to widest generalizations, so happy was the reconciliation of the qualities which engage the attention of hearers, yet reward the perusal of students, so critically did they keep the right side of the line which parts eloquence from rhetoric, and so far do they rise above the penury of mere debate, that the general reason of the country has enshrined them at once, and forever, among our classics.

It is a common belief that Mr. Webster was a various reader; and I think it is true, even to a greater degree than has been believed. In his profession of politics, nothing, I think, worthy of attention had escaped him; nothing of the ancient or modern prudence; nothing which Greek or Roman or European speculation in that walk had explored, or Greek or Roman or European or universal history, or public biography exemplified. I shall not soon forget with what admiration he spake, at an interview to which he admitted me, while in the Law School at Cambridge, of the politics and ethics of Aristotle, and of the mighty mind which, as he said, seemed to have "thought through" so many of the great problems which form the discipline of social man. American history and American

political literature he had by heart, — the long series of influences which trained us for representative and free government; that other series of influences which moulded us into a united government; the colonial era; the age of controversy before the revolution; every scene and every person in that great tragic action; every question which has successively engaged our politics, and every name which has figured in them, — the whole stream of our time was open, clear, and present ever to his eye.

Beyond his profession of politics, so to call it, he had been a diligent and choice reader, as his extraordinary style in part reveals; and I think the love of reading would have gone with him to a later and riper age, if to such an age it had been the will of God to preserve him. This is no place or time to appreciate this branch of his acquisitions; but there is an interest inexpressible in knowing who were any of the chosen from among the great dead in the library of such a man. Others may correct me, but I should say of that interior and narrower circle were Cicero, Virgil, Shakspeare, — whom he knew familiarly as the constitution, — Bacon, Milton, Burke, Johnson, — to whom I hope it is not pedantic nor fanciful to say, I often thought his nature presented some resemblance; the same abundance of the general propositions required for explaining a difficulty and refuting a sophism copiously and promptly occurring to him; the same kindness of heart and wealth of sensibility, under a manner, of course, more courteous and gracious, yet more sovereign; the same sufficient, yet not predominant, imagination, stooping ever to truth, and giving affluence, vivacity, and attraction to a powerful, correct, and weighty style of prose.

I cannot leave this life and character without selecting and dwelling a moment on one or two of his traits, or virtues, or felicities, a little longer. There is a collective impression made by the whole of an eminent person's life, beyond and other than, and apart from, that which the mere general biographer would afford the means of explaining. There is an influence of a great man derived from things indescribable, almost, or incapable of enumeration, or singly insufficient to account for it, but through which his spirit transpires, and his individuality goes forth on the contemporary generation. And

thus, I should say, one grand tendency of his life and character was to elevate the whole tone of the public mind. He did this, indeed, not merely by example. He did it by dealing, as he thought, truly and in manly fashion with that public mind. He evinced his love of the people, not so much by honeyed phrases as by good counsels and useful service, *vera pro gratis*. He showed how he appreciated them by submitting sound arguments to their understandings, and right motives to their free will. He came before them, less with flattery than with instruction; less with a vocabulary larded with the words humanity and philanthropy, and progress and brotherhood, than with a scheme of politics, an educational, social, and governmental system, which would have made them prosperous, happy, and great.

What the greatest of the Greek historians said of Pericles, we all feel might be said of him: "He did not so much follow as lead the people, because he framed not his words to please them, like one who is gaining power by unworthy means, but was able and dared, on the strength of his high character, even to brave their anger by contradicting their will."

I should indicate it as another influence of his life, acts, and opinions, that it was, in an extraordinary degree, uniformly and liberally conservative. He saw with vision as of a prophet, that if our system of united government can be maintained till a nationality shall be generated, of due intensity and due comprehension, a glory indeed millennial, a progress without end, a triumph of humanity hitherto unseen, were ours; and, therefore, he addressed himself to maintain that united government.

Standing on the Rock of Plymouth, he bade distant generations hail, and saw them rising, "demanding life, impatient for the skies," from what then were "fresh, unbounded, magnificent wildernesses;" from the shore of the great, tranquil sea, not yet become ours. But, observe to what he welcomes them; by what he would bless them. "It is to good government." It is to "treasures of science and delights of learning." It is to the "sweets of domestic life, the immeasurable good of rational existence, the immortal hopes of Christianity, the light of everlasting truth."

It will be happy, if the wisdom and temper of his adminis-

tration of our foreign affairs shall preside in the time which is at hand. Sobered, instructed by the examples and warnings of all the past, he yet gathered from the study and comparison of all the eras, that there is a silent progress of the race, — without pause, without haste, without return, — to which the counsellings of history are to be accommodated by a wise philosophy. More than, or as much as that of any of our public characters, his statesmanship was one which recognized a Europe, an old world, but yet grasped the capital idea of the American position, and deduced from it the whole fashion and color of its policy; which discerned that we are to play a high part in human affairs, but discerned, also, what part it is, — peculiar, distant, distinct, and grand as our hemisphere; an influence, not a contact, — the stage, the drama, the catastrophe, all but the audience, all our own, — and if ever he felt himself at a loss, he consulted, reverently, the genius of Washington.

In bringing these memories to a conclusion, — for I omit many things because I dare not trust myself to speak of them, — I shall not be misunderstood, or give offence, if I hope that one other trait in his public character, one doctrine, rather, of his political creed, may be remembered and be appreciated. It is one of the two fundamental precepts in which Plato, as expounded by the great master of Latin eloquence and reason and morals, comprehends the duty of those who share in the conduct of the state, — "*ut, quæcunque agunt,* TOTUM *corpus reipublicæ curent, nedum partem aliquam tuentur, reliquas deserant;*" that they comprise in their care the whole body of the Republic, nor keep one part and desert another. He gives the reason, — one reason, — of the precept, "*qui autem parti civium consulunt, partem negligunt, rem perniciosissimam in civitatem inducunt, seditionem atque discordiam.*" The patriotism which embraces less than the whole, induces sedition and discord, the last evil of the State.

How profoundly he had comprehended this truth; with what persistency, with what passion, from the first hour he became a public man to the last beat of the great heart, he cherished it; how little he accounted the good, the praise, the blame of this locality or that, in comparison of the larger good and the general and thoughtful approval of his own, and our, whole Amer-

ica, — she this day feels and announces. Wheresoever a drop of her blood flows in the veins of men, this trait is felt and appreciated. The hunter beyond Superior; the fisherman on the deck of the nigh night-foundered skiff; the sailor on the uttermost sea, — will feel, as he hears these tidings, that the protection of a sleepless, all-embracing, parental care is withdrawn from him for a space, and that his pathway henceforward is more solitary and less safe than before.

But I cannot pursue these thoughts. Among the eulogists who have just uttered the eloquent sorrow of England at the death of the great Duke, one has employed an image and an idea which I venture to modify and appropriate.

"The Northmen's image of death is finer than that of other climes; no skeleton, but a gigantic figure that envelops men within the massive folds of its dark garment. Webster seems so enshrouded from us, as the last of the mighty three, themselves following a mighty series, — the greatest closing the procession. The robe draws round him, and the era is past."

Yet, how much there is which that all-ample fold shall not hide, — the recorded wisdom, the great example, the assured immortality.

They speak of monuments!

> "Nothing can cover his high fame but heaven;
> No pyramids set off his memories
> But the eternal substance of his greatness;
> To which I leave him."

A DISCOURSE COMMEMORATIVE OF DANIEL WEBSTER:

DELIVERED BEFORE THE FACULTY, STUDENTS, AND ALUMNI OF DARTMOUTH COLLEGE, JULY 27, 1853.

It would be a strange neglect of a beautiful and approved custom of the schools of learning, and of one of the most pious and appropriate of the offices of literature, if the college in which the intellectual life of Daniel Webster began, and to which his name imparts charm and illustration, should give no formal expression to her grief in the common sorrow; if she should not draw near, of the most sad, in the procession of the bereaved, to the tomb at the sea, nor find, in all her classic shades, one affectionate and grateful leaf to set in the garland with which they have bound the brow of her child, the mightiest departed. Others mourn and praise him by his more distant and more general titles to fame and remembrance; his supremacy of intellect, his statesmanship of so many years, his eloquence of reason and of the heart, his love of country, incorruptible, conscientious, and ruling every hour and act; that greatness combined of genius, of character, of manner, of place, of achievement, which was just now among us, and is not, and yet lives still and evermore. You come, his cherishing mother, to own a closer tie, to indulge an emotion more personal and more fond, — grief and exultation contending for mastery, as in the bosom of the desolated parent, whose tears could not hinder him from exclaiming, "I would not exchange my dead son for any living one of Christendom."

Many places in our American world have spoken his eulogy. To all places the service was befitting, for "his renown, is it not of the treasures of the whole country?" To some it

belonged, with a strong local propriety, to discharge it. In the halls of Congress, where the majestic form seems ever to stand, and the deep tones to linger, the decorated scene of his larger labors and most diffusive glory; in the courts of law, to whose gladsome light he loved to return,—putting on again the robes of that profession ancient as magistracy, noble as virtue, necessary as justice,—in which he found the beginning of his honors; in Faneuil Hall, whose air breathes and burns of him; in the commercial cities, to whose pursuits his diplomacy secured a peaceful sea; in the cities of the inland, around which his capacious public affections, and wise discernment, aimed ever to develop the uncounted resources of that other, and that larger, and that newer America; in the pulpit, whose place among the higher influences which exalt a State, our guide in life, our consolation in death, he appreciated profoundly, and vindicated by weightiest argument and testimony, of whose offices it is among the fittest to mark and point the moral of the great things of the world, the excellency of dignity, and the excellency of power passing away as the pride of the wave, — passing from our eye to take on immortality, — in these places, and such as these, there seemed a reason beyond, and other, than the universal calamity, for such honors of the grave. But if so, how fit a place is this for such a service! We are among the scenes where the youth of Webster awoke first and fully to the life of the mind. We stand, as it were, at the sources — physical, social, moral, intellectual — of that exceeding greatness. Some now here saw that youth; almost it was yours, *Nilum parvum videre.* Some, one of his instructors certainly, some possibly of his classmates, or nearest college friends, some of the books he read, some of the apartments in which he studied, are here. We can almost call up from their habitation in the past, or in the fancy, the whole spiritual circle which environed that time of his life; the opinions he had embraced; the theories of mind, of religion, of morals, of philosophy, to which he had surrendered himself; the canons of taste and criticism which he had accepted; the great authors whom he loved best; the trophies which began to disturb his sleep; the facts of history which he had learned, believed, and begun to interpret; the shapes of hope and fear in which imagination began to bring before

him the good and evil of the future. Still the same outward world is around you, and above you. The sweet and solemn flow of the river, gleaming through interval here and there; margins and samples of the same old woods, but thinned and retiring; the same range of green hills yonder, tolerant of culture to the top, but shaded then by primeval forests, on whose crest the last rays of sunset lingered; the summit of Ascutney; the great northern light that never sets; the constellations that walk around, and watch the pole; the same nature, undecayed, unchanging, is here. Almost, the idolatries of the old paganism grow intelligible. "*Magnorum fluminum capita veneramur*," exclaims Seneca. "*Subita et ex abrupto vasti amnis eruptio aras habet!*" We stand at the fountain of a stream; we stand, rather, at the place where a stream, sudden, and from hidden springs, bursts to light; and whence we can follow it along and down, as we might our own Connecticut, and trace its resplendent pathway to the sea; and we venerate, and would almost build altars here. If I may adopt the lofty language of one of the admirers of William Pitt, we come naturally to this place, as if we could thus recall every circumstance of splendid preparation which contributed to fit the great man for the scene of his glory. We come, as if better here than elsewhere "we could watch, fold by fold, the bracing on of his Vulcanian panoply, and observe with pleased anxiety the leading forth of that chariot which, borne on irresistible wheels, and drawn by steeds of immortal race, is to crush the necks of the mighty, and sweep away the serried strength of armies."

And, therefore, it were fitter that I should ask of you, than speak to you, concerning him. Little, indeed, anywhere can be added now to that wealth of eulogy that has been heaped upon his tomb. Before he died, even, renowned in two hemispheres, in ours he seemed to be known with a universal nearness of knowledge. He walked so long and so conspicuously before the general eye; his actions, his opinions, on all things which had been large enough to agitate the public mind for the last thirty years and more, had had importance and consequences so remarkable, — anxiously waited for, passionately canvassed, not adopted always into the particular measure, or deciding the particular vote of government or the country, yet

sinking deep into the reason of the people, — a stream of influence whose fruits it is yet too soon for political philosophy to appreciate completely; an impression of his extraordinary intellectual endowments, and of their peculiar superiority in that most imposing and intelligible of all forms of manifestation, the moving of others' minds by speech, — this impression had grown so universal and fixed, and it had kindled curiosity to hear him and read him so wide and so largely indulged; his individuality altogether was so absolute and so pronounced, the force of will no less than the power of genius; the exact type and fashion of his mind, not less than its general magnitude, were so distinctly shown through his musical and transparent style; the exterior of the man, the grand mystery of brow and eye, the deep tones, the solemnity, the sovereignty, as of those who would build States, where every power and every grace did seem to set its seal, had been made, by personal observation, by description, by the exaggeration, even, of those who had felt the spell, by art, the daguerrotype and picture and statue, so familiar to the American eye, graven on the memory like the Washington of Stuart; the narrative of the mere incidents of his life had been so often told, — by some so authentically and with such skill, — and had been so literally committed to heart, that when he died there seemed to be little left but to say when and how his change came; with what dignity, with what possession of himself, with what loving thought for others, with what gratitude to God, uttered with unfaltering voice, that it was appointed to him there to die; to say how thus, leaning on the rod and staff of the promise, he took his way into the great darkness undismayed, till death should be swallowed up of life; and then to relate how they laid him in that simple grave, and turning and pausing, and joining their voices to the voices of the sea, bade him hail and farewell.

And yet, I hardly know what there is in public biography, what there is in literature, to be compared, in its kind, with the variety and beauty and adequacy of the series of discourses through which the love and grief, and deliberate and reasoning admiration of America for this great man, have been uttered. Little, indeed, there would be for me to say, if I were capable of the light ambition of proposing to omit all which others

have said on this theme before, — little to add, if I sought to say anything wholly new.

I have thought, — perhaps the place where I was to speak suggested the topic, — that before we approach the ultimate and historical greatness of Mr. Webster in its two chief departments, and attempt to appreciate by what qualities of genius and character and what succession of action he attained it, there might be an interest in going back of all this, so to say, and pausing a few moments upon his youth. I include in that designation the period from his birth, on the eighteenth day of January, 1782, until 1805, when, twenty-three years of age, he declined the clerkship of his father's court, and dedicated himself irrevocably to the profession of the law and the chances of a summons to less or more of public life. These twenty-three years we shall call the youth of Webster. Its incidents are few and well known, and need not long detain us.

Until May, 1796, beyond the close of his fourteenth year, he lived at home, attending the schools of Masters Chase and Tappan, successively; at work sometimes, and sometimes at play like any boy; but finding already, as few beside him did, the stimulations and the food of intellectual life in the social library; drinking in, unawares, from the moral and physical aspects about him, the lesson and the power of contention and self-trust; and learning how much grander than the forest bending to the long storm; or the silver and cherishing Merrimack swollen to inundation, and turning, as love become madness, to ravage the subject interval; or old woods sullenly retiring before axe and fire — learning to feel how much grander than these was the coming in of civilization as there he saw it, courage, labor, patience, plain living, heroical acting, high thinking, beautiful feeling, the fear of God, love of country and neighborhood and family, and all that form of human life of which his father and mother and sisters and brother were the endeared exemplification. In the arms of that circle, on parent knees, or later, in intervals of work or play, the future American Statesman acquired the idea of country, and became conscious of a national tie and a national life. There and then, something, glimpses, a little of the romance, the sweet and bitter memories of a soldier and borderer of the old colonial time and war, opened to the large

dark eyes of the child; memories of French and Indians stealing up to the very place where the story was telling; of men shot down at the plough, within sight of the old log house; of the massacre at Fort William Henry; of Stark, of Howe, of Wolfe falling in the arms of victory; and then of the next age, its grander scenes and higher names,—of the father's part at Bennington and White Plains; of Lafayette and Washington; and then of the Constitution, just adopted, and the first President, just inaugurated, with services of public thanksgiving to Almighty God, and the Union just sprung into life, all radiant as morning, harbinger and promise of a brighter day. You have heard how in that season he bought and first read the Constitution on the cotton handkerchief. A small cannon, I think his biographers say, was the ominous plaything of Napoleon's childhood. But this incident reminds us rather of the youthful Luther, astonished and kindling over the first Latin Bible he ever saw, — or the still younger Pascal, permitted to look into the Euclid, to whose sublimities an irresistible nature had secretly attracted him. Long before his fourteenth year, the mother first, and then the father, and the teachers and the schools and the little neighborhood, had discovered an extraordinary hope in the boy; a purpose, a dream, not yet confessed, of giving him an education began to be cherished; and in May, 1796, at the age of a little more than fourteen, he was sent to Exeter. I have myself heard a gentleman, long a leader of the Essex bar, and eminent in public life, now no more, who was then a pupil at the school, describe his large frame, superb face, immature manners, and rustic dress, surmounted with a student's gown, when first he came; and say, too, how soon and universally his capacity was owned. Who does not wish that the glorious Buckminster could have foreseen and witnessed the whole greatness, but certainly the renown of eloquence, which was to come to the young stranger, whom, choking, speechless, the great fountain of feelings sealed as yet, he tried in vain to encourage to declaim before the unconscious, bright tribes of the school? The influences of Exeter on him were excellent, but his stay was brief. In the winter of 1796 he was at home again; and in February, 1797, he was placed under the private tuition, and in the family of Rev.

Mr. Wood, of Boscawen. It was on the way with his father, to the house of Mr. Wood, that he first heard, with astonishment, that the parental love and good sense had resolved on the sacrifice of giving him an education at college. "I remember," he writes, "the very hill we were ascending, through deep snows, in a New England sleigh, when my father made his purpose known to me. I could not speak. How could he, I thought, with so large a family, and in such narrow circumstances, think of incurring so great an expense for me? A warm glow ran all over me, and I laid my head on my father's shoulder and wept." That speechlessness, that glow, those tears reveal to us what his memory and consciousness could hardly do to him, that already, somewhere, at some hour of day or evening or night, as he read some page, or heard some narrative, or saw some happier schoolfellow set off from Exeter to begin his college life, the love of intellectual enjoyment, the ambition of intellectual supremacy, had taken hold of him; that, when or how he knew not, but before he was aware of it, the hope of obtaining a liberal education and leading a professional life had come to be his last thought before he slept, his first when he awoke, and to shape his dreams. Behold in them, too, his whole future. That day, that hour, that very moment, from the deep snows of that slow hill he set out on the long ascent that bore him — "no step backward" — to the high places of the world! He remained under the tuition of Mr. Wood until August, 1796, and then entered this college, where he was, at the end of the full term of four years, graduated in 1801. Of that college life you can tell me more than I can tell you. It is the universal evidence that it was distinguished by exemplary demeanor, by reverence for religion, respect for instructors, and observance of law. We hear from all sources, too, that it was distinguished by assiduous and various studies. With the exception of one or two branches, for which his imperfect preparation had failed to excite a taste, he is reported to have addressed himself to the prescribed tasks, and to have availed himself of the whole body of means of liberal culture appointed by the government, with decorum and conscientiousness and zeal. We hear more than this. The whole course of traditions concerning his col-

lege life is full to prove two facts. The first is, that his reading — general and various far beyond the requirements of the Faculty, or the average capacity of that stage of the literary life — was not solid and useful merely — which is vague commendation — but it was such as predicted and educated the future statesman. In English literature, — its finer parts, its poetry and tasteful reading, I mean, — he had read much rather than many things; but he had read somewhat. That a young man of his emotional nature, — full of eloquent feeling, the germs of a fine taste, the ear for the music of words, the eye for all beauty and all sublimity, already in extraordinary measure his, — already practising the art of composition, speech, and criticism, — should have recreated himself — as we know he did — with Shakspeare and Pope and Addison; with the great romance of Defoe; with the more recent biographies of Johnson, and his grand imitations of Juvenal; with the sweet and refined simplicity and abstracted observation of Goldsmith, mingled with sketches of homefelt delight; with the "Elegy" of Gray, whose solemn touches soothed the thoughts or tested the consciousness of the last hour; with the vigorous originality of the then recent Cowper, whom he quoted when he came home, as it proved, to die, — this we should have expected. But I have heard, and believe, that it was to another institution more austere and characteristic, that his own mind was irresistibly and instinctively even then attracted. The conduct of what Locke calls the human understanding; the limits of human knowledge; the means of coming to the knowledge of the different classes of truth; the laws of thought; the science of proofs which is logic; the science of morals; the facts of history; the spirit of laws; the conduct and aims of reasonings in politics, — these were the strong meat that announced and began to train the great political thinker and reasoner of a later day.

I have heard that he might oftener be found in some solitary seat or walk, with a volume of Gordon's or Ramsay's Revolution, or of the "Federalist," or of Hume's "History of England," or of his "Essays," or of Grotius, or Puffendorf, or Cicero, or Montesquieu, or Locke, or Burke, than with Virgil, or Shakspeare, or the "Spectator." Of the history of opinions, in the department of philosophy, he was

already a curious student. The oration he delivered before the United Fraternity, when he was graduated, treated that topic of opinion, under some aspects, — as I recollect from once reading the manuscript, — with copiousness, judgment, and enthusiasm; and some of his ridicule of the Berkleian theory of the non-existence of matter, I well remember, anticipated the sarcasm of a later day on a currency all metallic, and on nullification as a strictly constitutional remedy.

The other fact, as well established by all we can gather of his life in college is, that the faculty, so transcendent afterwards, of moving the minds of men by speech, was already developed and effective in a remarkable degree. Always there is a best writer or speaker or two in college; but this stereotyped designation seems wholly inadequate to convey the impression he made in his time. Many, now alive, have said that some of his performances, having regard to his youth, his objects, his topics, his audience — one on the celebration of Independence, one a eulogy on a student much beloved — produced an instant effect, and left a recollection to which nothing else could be compared; which could be felt and admitted only, not explained; but which now they know were the first sweet tones of inexplicable but delightful influence of that voice, unconfirmed as yet, and unassured, whose more consummate expression charmed and suspended the soul of a nation. To read these essays now, disappoints you somewhat. As Quintilian says of Hortensius, *Apparet placuisse aliquid eo dicente quod legentes non invenimus.* Some spell there was in the spoken word which the reader misses. To find the secret of that spell, you must recall the youth of Webster. Beloved fondly, and appreciated by that circle as much as by any audience, larger, more exacting, more various, and more fit, which afterwards he found anywhere; known to be manly, just, pure, generous, affectionate; known and felt by his strong will, his high aims, his commanding character, his uncommon and difficult studies; he had every heart's warmest good wish with him when he rose; and then, when, unchecked by any very severe theory of taste, unoppressed by any dread of saying something incompatible with his place and fame, or unequal to himself, he just unlocked the deep spring of that eloquent feeling, which, in connection with his power of mere intellect, was such a stu-

pendous psychological mystery, and gave heart and soul, not to the conduct of an argument, or the investigation and display of a truth of the reason, but to a fervid, beautiful, and prolonged emotion, to grief, to eulogy, to the patriotism of scholars — why need we doubt or wonder, as they looked on that presiding brow, the eye large, sad, unworldly, incapable to be fathomed, the lip and chin, whose firmness as of chiselled, perfect marble, profoundest sensibility alone caused ever to tremble, why wonder at the traditions of the charm which they owned, and the fame which they even then predicted?

His college life closed in 1801. For the statement that he had thought of selecting the profession of theology, the surviving members of his family, his son and his brother-in-law, assure me that there is no foundation. Certainly, he began at once the study of the law, and interrupted only by the necessity of teaching an academy a few months, with which he united the recreation of recording deeds, he prosecuted it at Salisbury in the office of Mr. Thompson, and at Boston in the office of Mr. Gore, until March, 1805, when, resisting the sharp temptation of a clerkship, and an annual salary of fifteen hundred dollars, he was admitted to the bar.

And so he has put on the robe of manhood, and has come to do the work of life. Of his youth there is no need to say more. It had been pure, happy, strenuous; in many things privileged. The influence of home, of his father, and the excellent mother, and that noble brother, whom he loved so dearly, and mourned with such sorrow — these influences on his heart, principles, will, aims, were elevated and strong. At an early age, comparatively, the then great distinction of liberal education was his. His college life was brilliant and without a stain; and in moving his admission to the bar, Mr. Gore presented him as one of extraordinary promise.

> "With prospects bright, upon the world he came, —
> Pure love of virtue, strong desire of fame;
> Men watched the way his lofty mind would take,
> And all foretold the progress he would make."

And yet, if on some day, as that season was drawing to its close, it had been foretold to him, that before his life, prolonged to little more than threescore years and ten, should end, he should see that country, in which he was coming to act his part,

expanded across a continent; the thirteen States of 1801 multiplied to thirty-one; the territory of the North-west and the great valley below sown full of those stars of empire; the Mississippi forded, and the Sabine and Rio Grande, and the Neuces; the ponderous gates of the Rocky Mountains opened to shut no more; the great tranquil sea become our sea; her area seven times larger, her people five times more in number; that through all experiences of trial, the madness of party, the injustice of foreign powers, the vast enlargement of her borders, the antagonisms of interior interest and feeling, — the spirit of nationality would grow stronger still and more plastic; that the tide of American feeling would run ever fuller; that her agriculture would grow more scientific; her arts more various and instructed, and better rewarded; her commerce winged to a wider and still wider flight; that the part she would play in human affairs would grow nobler ever, and more recognized; that in this vast growth of national greatness time would be found for the higher necessities of the soul; that her popular and her higher education would go on advancing; that her charities and all her enterprises of philanthropy would go on enlarging; that her age of lettered glory should find its auspicious dawn — and then it had been also foretold him that even so, with her growth and strength, should his fame grow and be established and cherished, there where she should garner up her heart; that by long gradations of service and labor he should rise to be, before he should taste of death, of the peerless among her great ones; that he should win the double honor, and wear the double wreath of professional and public supremacy; that he should become her wisest to counsel and her most eloquent to persuade; that he should come to be called the Defender of the Constitution and the preserver of honorable peace; that the "austere glory of suffering" to save the Union should be his; that his death, at the summit of greatness, on the verge of a ripe and venerable age, should be distinguished, less by the flags at half-mast on ocean and lake, less by the minute-gun, less by the public procession and the appointed eulogy, than by sudden paleness overspreading all faces, by gushing tears, by sorrow, thoughtful, boding, silent, the sense of desolateness, as if renown and grace were dead, — as if the hunter's path, and the sailor's, in the great solitude of

wilderness or sea, henceforward were more lonely and less safe than before — had this prediction been whispered, how calmly had that perfect sobriety of mind put it all aside as a pernicious or idle dream! Yet, in the fulfilment of that prediction is told the remaining story of his life.

It does not come within the plan which I have marked out for this discourse to repeat the incidents of that subsequent history. The more conspicuous are known to you and the whole American world. Minuter details the time does not permit, nor the occasion require. Some quite general views of what he became and achieved; some attempt to appreciate that intellectual power, and force of will, and elaborate culture, and that power of eloquence, so splendid and remarkable, by which he wrought his work; some tribute to the endearing and noble parts of his character; and some attempt to vindicate the political morality by which his public life was guided, even to its last great act, are all that I propose, and much more than I can hope worthily to accomplish.

In coming, then, to consider what he became and achieved, I have always thought it was not easy to lay too much stress, in the first place, on that realization of what might have been regarded incompatible forms of superiority, and that exemplification of what might have been regarded incompatible gifts or acquirements — "rare in their separate excellence, wonderful in their special combination" — which meet us in him everywhere. Remark, first, that eminence — rare, if not unprecedented — of the first rate, in the two substantially distinct and unkindred professions, — that of the law, and that of public life. In surveying that ultimate and finished greatness in which he stands before you in his full stature and at his best, this double and blended eminence is the first thing that fixes the eye, and the last. When he died he was first of American lawyers, and first of American statesmen. In both characters he continued — discharging the foremost part in each — down to the falling of the awful curtain. Both characters he kept distinct, — the habits of mind, the forms of reasoning, the nature of the proofs, the style of eloquence. Neither hurt nor changed the other. How much his understanding was "quickened and invigorated" by the law, I have often heard him acknowledge and explain. But how, in spite of the law, was that mind, by

other felicity, and other culture, "opened and liberalized" also! How few of what are called the bad intellectual habits of the bar he carried into the duties of statesmanship! His interpretations of the constitution and of treaties; his expositions of public law — how little do you find in them, where, if anywhere, you would expect it, of the mere ingenuity, the moving of "vermiculate questions," the word-catching, the scholastic subtlety which, in the phrase of his memorable quotation,

"Can sever and divide
A hair 'twixt north and north-west side," —

ascribed by satire to the profession; and how much of its truer function, and nobler power of calling, history, language, the moral sentiments, reason, common sense, the high spirit of magnanimous nationality, to the search of truth! How little do we find in his politics of another bad habit of the profession, the worst "idol of the cave," a morbid, unreasoning, and regretful passion for the past, that bends and weeps over the stream, running irreversibly, because it will not return, and will not pause, and gives back to vanity every hour a changed and less beautiful face! We ascribe to him certainly a sober and conservative habit of mind, and such he had. Such a habit the study and practice of the law doubtless does not impair. But his was my Lord Bacon's conservatism. He held with him, "that antiquity deserveth this reverence, that men should make a stand thereupon, and discover what is the best way; but when the discovery is well taken, then to make progression." He would keep the Union according to the Constitution, not as a relic, a memorial, a tradition, — not for what it has done, though that kindled his gratitude and excited his admiration, but for what it is now and hereafter to do, when adapted by a wise practical philosophy to a wider and higher area, to larger numbers, to severer and more glorious probation. Who better than he has grasped and displayed the advancing tendencies and enlarging duties of America? Who has caught — whose eloquence, whose genius, whose counsels, have caught more adequately the genuine inspiration of our destiny? Who has better expounded by what moral and prudential policy, by what improved culture of heart and reason,

by what true worship of God, by what good faith to all other nations, the dangers of that destiny may be disarmed, and its large promise laid hold on?

And while the lawyer did not hurt the statesman, the statesman did not hurt the lawyer. More; the statesman did not modify, did not unrobe, did not tinge, the lawyer. It would not be to him that the epigram could have application, where the old Latin satirist makes the client complain that his lawsuit is concerning *tres capellæ* — three kids; and that his advocate with large disdain of them is haranguing with loud voice and both hands, about the slaughters of Cannæ, the war of Mithridates, the perjuries of Hannibal. I could never detect that in his discussions of law he did not just as much recognize authority, just as anxiously seek for adjudications old and new in his favor, just as closely sift them and collate them, that he might bring them to his side if he could, or leave them ambiguous and harmless if he could not; that he did not just as rigorously observe the peculiar mode which that science employs in passing from the known to the unknown, the peculiar logic of the law, as if he had never investigated any other than legal truth by any other organon than legal logic in his life. Peculiarities of legal reasoning he certainly had, belonging to the peculiar structure and vast power of his mind; more original thought, more discourse of principles, less of that mere subtlety of analysis which is not restrained by good sense, and the higher power of duly tempering and combining one truth in a practical science with other truths, from absurdity or mischief; but still it was all strict and exact legal reasoning. The long habit of employing the more popular methods, the probable and plausible conjectures, the approximations, the compromises of deliberative discussion, did not seem to have left the least trace on his vocabulary, or his reasonings, or his demeanor. No doubt, as a part of his whole culture, it helped to give enlargement and general power and elevation of mind; but the sweet stream passed under the bitter sea, the bitter sea pressed on the sweet stream, and each flowed unmingled, unchanged in taste or color.

I have said that this double eminence is rare, if not unprecedented. We do no justice to Mr. Webster, if we do not keep this ever in mind. How many exemplifications of it do you

find in British public life? The Earl of Chatham, Burke, Fox, Sheridan, Windham, Pitt, Grattan, Canning, Peel — were they also, or any one, the acknowledged leader in Westminster Hall or on the circuit? And, on the other hand, would you say that the mere parliamentary career of Mansfield, or Thurlow, or Dunning, or Erskine, or Camden, or Curran, would compare in duration, constancy, variety of effort, the range of topics discussed, the fulness, extent, and affluence of the discussion, the influence exerted, the space filled, the senatorial character completely realized — with his? In our own public life it is easier to find a parallel. Great names crowd on us in each department; greater, or more loved, or more venerable, no annals can show. But how few even here have gathered the double wreath and the blended fame!

And now, having observed the fact of this combination of quality and excellence scarcely compatible, inspect for a moment each by itself.

The professional life of Mr. Webster began in the spring of 1805. It may not be said to have ended until he died; but I do not know that it happened to him to appear in court, for the trial of a cause, after his argument of the Goodyear patent for improvements in the preparation of India-rubber, in Trenton, in March, 1852.

There I saw, and last heard him. The thirty-four years which had elapsed since, a member of this College, at home for health, I first saw and heard him in the Supreme Court of Massachusetts, in the county of Essex, defending Jackman, accused of the robbery of Goodrich, had in almost all things changed him. The raven hair, the vigorous, full frame and firm tread, the eminent but severe beauty of the countenance, not yet sealed with the middle age of man, the exuberant demonstration of all sorts of power, which so marked him at first — for these, as once they were, I explored in vain. Yet how far higher was the interest that attended him now: his sixty-nine years robed, as it were, with honor and with love, with associations of great service done to the state, and of great fame gathered and safe; and then the perfect mastery of the cause in its legal and scientific principles, and in all its facts; the admirable clearness and order in which his propositions

were advanced successively; the power, the occasional high ethical tone, the appropriate eloquence, by which they were made probable and persuasive to the judicial reason—these announced the leader of the American bar, with every faculty and every accomplishment, by which he had won that proud title, wholly unimpaired; the eye not dim nor the natural force abated.

I cannot here and now trace, with any minuteness, the course of Mr. Webster at the bar during these forty-eight years from the opening of his office in Boscawen; nor convey any impression whatever of the aggregate of labor which that course imposed; or of the intellectual power which it exacted; nor indicate the stages of his rise; nor define the time when his position at the summit of the profession may be said to have become completely vindicated. You know, in general, that he began the practice of the law in New Hampshire in the spring of 1805; that he prosecuted it, here, in its severest school, with great diligence, and brilliant success, among competitors of larger experience and of consummate ability, until 1816: that he then removed to Massachusetts, and that there, in the courts of that State, and of other States, and in those of the general government, and especially in the Supreme Court sitting at Washington, he pursued it as the calling by which he was to earn his daily bread, until he died. You know, indeed, that he did not pursue it exactly as one pursues it who confines himself to an office; and seeks to do the current and miscellaneous business of a single bar. His professional employment, as I have often heard him say, was very much the preparation of opinions on important questions, presented from every part of the country; and the trial of causes. This kind of professional life allowed him seasonable vacations; and it accommodated itself somewhat to the exactions of his other and public life. But it was all one long and continued practice of the law; the professional character was never put off; nor the professional robe long unworn to the last.

You know, too, his character as a jurist. This topic has been recently and separately treated, with great ability, by one in a high degree competent to the task,—the late learned Chief Justice of New Hampshire, now Professor of Law at Cambridge; and it needs no additional illustration from me. Yet,

let me say, that herein, also, the first thing which strikes you is the union of diverse, and, as I have said, what might have been regarded incompatible excellences. I shall submit it to the judgment of the universal American bar, if a carefully prepared opinion of Mr. Webster, on any question of law whatever in the whole range of our jurisprudence, would not be accepted everywhere as of the most commanding authority, and as the highest evidence of legal truth? I submit it to that same judgment, if for many years before his death, they would not have rather chosen to intrust the maintenance and enforcement of any important proposition of law whatever, before any legal tribunal of character whatever, to his best exertion of his faculties, than to any other ability which the whole wealth of the profession could supply?

And this alone completes the description of a lawyer and a forensic orator of the first rate; but it does not complete the description of his professional character. By the side of all this, so to speak, there was that whole class of qualities which made him for any description of trial by jury whatever, criminal or civil, by even a more universal assent, foremost. For that form of trial no faculty was unused or needless; but you were most struck there to see the unrivalled legal reason put off, as it were, and reappear in the form of a robust common sense and eloquent feeling, applying itself to an exciting subject of business; to see the knowledge of men and life by which the falsehood and veracity of witnesses, the probabilities and improbabilities of transactions as sworn to, were discerned in a moment; the direct, plain, forcible speech; the consummate narrative, a department which he had particularly cultivated, and in which no man ever excelled him; the easy and perfect analysis by which he conveyed his side of the cause to the mind of the jury; the occasional gush of strong feeling, indignation, or pity; the masterly, yet natural way, in which all the moral emotions of which his cause was susceptible were called to use, the occasional sovereignty of dictation to which his convictions seemed spontaneously to rise. His efforts in trials by jury compose a more traditional and evanescent part of his professional reputation than his arguments on questions of law; but I almost think they were his mightiest professional displays, or displays of any kind, after all.

One such I stood in a relation to witness with a comparatively easy curiosity, and yet with intimate and professional knowledge of all the embarrassments of the case. It was the trial of John Francis Knapp, charged with being present, aiding, and abetting in the murder of Joseph White, in which Mr. Webster conducted the prosecution for the Commonwealth,—in the same year with his reply to Mr. Hayne, in the Senate and a few months later, — and when I bring to mind the incidents of that trial; the necessity of proving that the prisoner was near enough to the chamber in which the murder was being committed by another hand to aid in the act, and was there with the intention to do so, and thus in point of law did aid in it — because mere accessorial guilt was not enough to convict him; the difficulty of proving this — because the nearest point to which the evidence could trace him was still so distant as to warrant a pretty formidable doubt whether mere curiosity had not carried him thither; and whether he could in any useful or even conceivable manner have coöperated with the actual murderer, if he had intended to do so; and because the only mode of rendering it probable that he was there with a purpose of guilt was by showing that he was one of the parties to a conspiracy of murder, whose very existence, actors, and objects, had to be made out by the collation of the widest possible range of circumstances — some of them pretty loose; and even if he was a conspirator, it did not quite necessarily follow that any active participation was assigned to him for his part, any more than to his brother, who, confessedly took no such part — the great number of witnesses to be examined and cross-examined, a duty devolving wholly on him; the quick and sound judgment demanded and supplied to determine what to use and what to reject of a mass of rather unmanageable materials; the points in the law of evidence to be argued — in the course of which he made an appeal to the Bench on the complete impunity which the rejection of the prisoner's confession would give to the murder, in a style of dignity and energy, I should rather say of grandeur, which I never heard him equal before or after; the high ability and fidelity with which every part of the defence was conducted; and the great final summing up to which he brought, and in which he needed, the utmost exertion of every

faculty he possessed to persuade the jury that the obligation of that duty the sense of which, he said, "pursued us ever: it is omnipresent like the Deity: if we take the wings of the morning and dwell in the uttermost parts of the sea, duty performed or duty violated is still with us for our happiness or misery"—to persuade them that this obligation demanded that on his proofs they should convict the prisoner: to which he brought first the profound belief of his guilt, without which he could not have prosecuted him; then skill consummate in inspiring them with a desire or a willingness to be instrumental in detecting that guilt; and to lean on him in the effort to detect it; then every resource of professional ability to break the force of the propositions of the defence, and to establish the truth of his own: inferring a conspiracy to which the prisoner was a party, from circumstances acutely ridiculed by the able counsel opposing him as "Stuff"—but woven by him into strong and uniform tissue; and then bridging over from the conspiracy to the not very necessary inference that the particular conspirator on trial was at his post, in execution of it, to aid and abet—the picture of the murder with which he begun—not for rhetorical display, but to inspire solemnity and horror, and a desire to detect and punish for justice and for security; the sublime exhortation to duty with which he closed—resting on the universality, and authoritativeness, and eternity of its obligation—which left in every juror's mind the impression that it was the duty of convicting in this particular case the sense of which would be with him in the hour of death, and in the judgment, and forever—with these recollections of that trial I cannot help thinking it a more difficult and higher effort of mind than that more famous "Oration for the Crown."

It would be not unpleasing nor inappropriate to pause, and recall the names of some of that succession of competitors by whose rivalry the several stages of his professional life were honored and exercised; and of some of the eminent judicial persons who presided over that various and high contention. Time scarcely permits this; but in the briefest notice I must take occasion to say that perhaps the most important influence—certainly the most important early influence—on his professional traits and fortunes was that exerted by the great general

abilities, impressive character, and legal genius of Mr. Mason. Who he was you all know. How much the jurisprudence of New Hampshire owes to him; what deep traces he left on it; how much he did to promote the culture, and to preserve the integrity, of the old common law; to adapt it to your wants, and your institutions; and to construct a system of practice by which it was administered with extraordinary energy and effectiveness for the discovery of truth, and the enforcement of right; you of the legal profession of this State will ever be proud to acknowledge. Another forum in a neighboring commonwealth, witnessed and profited by the last labors, and enlarged studies of the consummate lawyer and practiser; and at an earlier day the Senate, the country, had recognized his vast practical wisdom and sagacity, the fruit of the highest intellectual endowments, matured thought, and profound observation; his fidelity to the obligations of that party connection to which he was attached; his fidelity through all his life, still more conspicuous and still more admirable, to the higher obligations of a considerate and enlarged patriotism. He had been more than fourteen years at the bar, when Mr. Webster came to it; he discerned instantly what manner of man his youthful competitor was; he admitted him to his intimate friendship; and paid him the unequivocal compliment, and did him the real kindness, of compelling him to the utmost exertion of his diligence and capacity by calling out against him all his own. "The proprieties of this occasion" — these are Mr. Webster's words in presenting the resolutions of the Suffolk Bar upon Mr. Mason's death — "compel me, with whatever reluctance, to refrain from the indulgence of the personal feelings which arise in my heart upon the death of one with whom I have cultivated a sincere, affectionate, and unbroken friendship, from the day when I commenced my own professional career to the closing hour of his life. I will not say of the advantages which I have derived from his intercourse and conversation all that Mr. Fox said of Edmund Burke; but I am bound to say, that of my own professional discipline and attainments, whatever they may be, I owe much to that close attention to the discharge of my duties which I was compelled to pay for nine successive years, from day to day, by Mr. Mason's efforts and arguments at the same bar.

I must have been unintelligent indeed, not to have learned something from the constant displays of that power which I had so much occasion to see and feel."

I reckon next to his, for the earlier time of his life, the influence of the learned and accomplished Smith; and next to these — some may believe greater — is that of Mr. Justice Story. That extraordinary person had been admitted to the bar in Essex in Massachusetts in 1801; and he was engaged in many trials in the county of Rockingham in this State before Mr. Webster had assumed his own established position. Their political opinions differed; but such was his affluence of knowledge already; such his stimulant enthusiasm; he was burning with so incredible a passion for learning and fame, that the influence on the still young Webster was instant; and it was great and permanent. It was reciprocal too; and an intimacy began that attended the whole course of honor through which each, in his several sphere, ascended. Parsons he saw, also, but rarely; and Dexter oftener, and with more nearness of observation, while yet laying the foundation of his own mind and character; and he shared largely in the universal admiration of that time, and of this, of their attainments and genius and diverse greatness.

As he came to the grander practice of the national bar, other competition was to be encountered. Other names begin to solicit us; other contention; higher prizes. It would be quite within the proprieties of this discourse to remember the parties, at least, to some of the higher causes, by which his ultimate professional fame was built up; even if I could not hope to convey any impression of the novelty and difficulty of the questions which they involved, or of the positive addition which the argument, and judgment, made to the treasures of our constitutional and general jurisprudence. But there is only one of which I have time to say anything, and that is the case which established the inviolability of the charter of Dartmouth College by the Legislature of the State of New Hampshire. Acts of the Legislature, passed in the year 1816, had invaded its charter. A suit was brought to test their validity. It was tried in the Supreme Court of the State; a judgment was given against the College, and this was appealed to the Supreme Federal Court by writ of error. Upon solemn argu-

ment the charter was decided to be a contract whose obligation a State may not impair; the acts were decided to be invalid as an attempt to impair it, and you hold your charter under that decision to-day. How much Mr. Webster contributed to that result, how much the effort advanced his own distinction at the bar, you all know. Well, as if of yesterday, I remember how it was written home from Washington, that "Mr. Webster closed a legal argument of great power by a peroration which charmed and melted his audience." Often since, I have heard vague accounts, not much more satisfactory, of the speech and the scene. I was aware that the report of his argument, as it was published, did not contain the actual peroration, and I supposed it lost forever. By the great kindness of a learned and excellent person, Dr. Chauncy A. Goodrich, a professor in Yale College, with whom I had not the honor of acquaintance, although his virtues, accomplishments, and most useful life, were well known to me, I can read to you the words whose power, when those lips spoke them, so many owned, although they could not repeat them. As those lips spoke them, we shall hear them nevermore, but no utterance can extinguish their simple, sweet, and perfect beauty. Let me first bring the general scene before you, and then you will hear the rest in Mr. Goodrich's description. It was in 1818, in the thirty-seventh year of Mr. Webster's age. It was addressed to a tribunal presided over by Marshall, assisted by Washington, Livingston, Johnson, Story, Todd, and Duvall, — a tribunal unsurpassed on earth in all that gives illustration to a bench of law, and sustained and venerated by a noble bar. He had called to his aid the ripe and beautiful culture of Hopkinson; and of his opponents was William Wirt, then and ever of the leaders of the bar, who, with faculties and accomplishments fitting him to adorn and guide public life, abounding in deep professional learning, and in the most various and elegant acquisitions, — a ripe and splendid orator, made so by genius and the most assiduous culture, — consecrated all to the service of the law. It was before that tribunal, and in presence of an audience select and critical, among whom, it is to be borne in mind, were some graduates of the college, who were attending to assist against her, that he opened the cause. I gladly proceed in the words of Mr. Goodrich.

"Before going to Washington, which I did chiefly for the sake of hearing Mr. Webster, I was told that, in arguing the case at Exeter, New Hampshire, he had left the whole court-room in tears at the conclusion of his speech. This, I confess, struck me unpleasantly, — any attempt at pathos on a purely legal question like this seemed hardly in good taste. On my way to Washington, I made the acquaintance of Mr. Webster. We were together for several days in Philadelphia, at the house of a common friend; and as the College question was one of deep interest to literary men, we conversed often and largely on the subject. As he dwelt upon the leading points of the case, in terms so calm, simple, and precise, I said to myself more than once, in reference to the story I had heard, 'Whatever may have seemed appropriate in defending the College at *home*, and on her own ground, there will be no appeal to the feelings of Judge Marshall and his associates at Washington.' The Supreme Court of the United States held its session, that winter, in a mean apartment of moderate size — the Capitol not having been built after its destruction in 1814. The audience, when the case came on, was therefore small, consisting chiefly of legal men, the *élite* of the profession throughout the country. Mr. Webster entered upon his argument in the calm tone of easy and dignified conversation. His matter was so completely at his command that he scarcely looked at his brief, but went on for more than four hours with a statement so luminous, and a chain of reasoning so easy to be understood, and yet approaching so nearly to absolute demonstration, that he seemed to carry with him every man of his audience without the slightest effort or weariness on either side. It was hardly *eloquence*, in the strict sense of the term; it was pure reason. Now and then, for a sentence or two, his eye flashed and his voice swelled into a bolder note, as he uttered some emphatic thought; but he instantly fell back into the tone of earnest conversation, which ran throughout the great body of his speech. A single circumstance will show you the clearness and absorbing power of his argument.

"I observed that Judge Story, at the opening of the case, had prepared himself, pen in hand, as if to take copious minutes. Hour after hour I saw him fixed in the same attitude, but, so far as I could perceive, with not a note on his paper.

The argument closed, and *I could not discover that he had taken a single note.* Others around me remarked the same thing; and it was among the *on dits* of Washington, that a friend spoke to him of the fact with surprise, when the Judge remarked, 'Everything was so clear, and so easy to remember, that not a note seemed necessary, and, in fact, I thought little or nothing about my notes.'

"The argument ended. Mr. Webster stood for some moments silent before the Court, while every eye was fixed intently upon him. At length, addressing the Chief Justice, Marshall, he proceeded thus: —

"'*This, Sir, is my case!* It is the case, not merely of that humble institution, it is the case of every College in our land. It is more. It is the case of every Eleemosynary Institution throughout our country, — of all those great charities founded by the piety of our ancestors to alleviate human misery, and scatter blessings along the pathway of life. It is more! It is, in some sense, the case of every man among us who has property of which he may be stripped; for the question is simply this: Shall our State Legislatures be allowed to take that which is not their own, to turn it from its original use, and apply it to such ends or purposes as they, in their discretion, shall see fit!

"'Sir, you may destroy this little Institution; it is weak; it is in your hands! I know it is one of the lesser lights in the literary horizon of our country. You may put it out. But if you do so, you must carry through your work! You must extinguish, one after another, all those great lights of science which, for more than a century, have thrown their radiance over our land!

"'It is, Sir, as I have said, a small College. And yet, *there are those who love it* ——.'

"Here the feelings which he had thus far succeeded in keeping down, broke forth. His lips quivered; his firm cheeks trembled with emotion; his eyes were filled with tears, his voice choked, and he seemed struggling to the utmost simply to gain that mastery over himself which might save him from an unmanly burst of feeling. I will not attempt to give you the few broken words of tenderness in which he went on to speak of his attachment to the College. The whole seemed to

be mingled throughout with the recollections of father, mother, brother, and all the trials and privations through which he had made his way into life. Every one saw that it was wholly unpremeditated, a pressure on his heart, which sought relief in words and tears.

"The court-room during these two or three minutes presented an extraordinary spectacle. Chief Justice Marshall, with his tall and gaunt figure bent over as if to catch the slightest whisper, the deep furrows of his cheek expanded with emotion, and eyes suffused with tears; Mr. Justice Washington at his side, — with his small and emaciated frame, and countenance more like marble than I ever saw on any other human being, — leaning forward with an eager, troubled look; and the remainder of the Court, at the two extremities, pressing, as it were, toward a single point, while the audience below were wrapping themselves round in closer folds beneath the bench to catch each look, and every movement of the speaker's face. If a painter could give us the scene on canvas, — those forms and countenances, and Daniel Webster as he then stood in the midst, it would be one of the most touching pictures in the history of eloquence. One thing it taught me, that the *pathetic* depends not merely on the words uttered, but still more on the estimate we put upon him who utters them. There was not one among the strong-minded men of that assembly who could think it unmanly to weep, when he saw standing before him the man who had made such an argument, melted into the tenderness of a child.

"Mr. Webster had now recovered his composure, and fixing his keen eye on the Chief Justice, said, in that deep tone with which he sometimes thrilled the heart of an audience, —

"'Sir, I know not how others may feel,' (glancing at the opponents of the College before him,) 'but, for myself, when I see my Alma Mater surrounded, like Cæsar in the senate-house, by those who are reiterating stab upon stab, I would not, for this right hand, have her turn to me, and say, *Et tu quoque mi fili! And thou too, my son!*'

"He sat down. There was a deathlike stillness throughout the room for some moments; every one seemed to be slowly recovering himself, and coming gradually back to his ordinary range of thought and feeling."

It was while Mr. Webster was ascending through the long gradations of the legal profession to its highest rank, that by a parallel series of display on a stage, and in parts totally distinct, by other studies, thoughts, and actions, he rose also to be at his death the first of American statesmen. The last of the mighty rivals was dead before, and he stood alone. Give this aspect also of his greatness a passing glance. His public life began in May 1813, in the House of Representatives in Congress, to which this State had elected him. It ended when he died. If you except the interval between his removal from New Hampshire and his election in Massachusetts, it was a public life of forty years. By what political morality, and by what enlarged patriotism, embracing the whole country, that life was guided, I shall consider hereafter. Let me now fix your attention rather on the magnitude and variety and actual value of the service. Consider that from the day he went upon the Committee of Foreign Relations, in 1813, in time of war, and more and more, the longer he lived and the higher he rose, he was a man whose great talents and devotion to public duty placed and kept him in a position of associated or sole command; command in the political connection to which he belonged, command in opposition, command in power; and appreciate the responsibilities which that implies, what care, what prudence, what mastery of the whole ground, — exacting for the conduct of a party, as Gibbon says of Fox, abilities and civil discretion equal to the conduct of an empire. Consider the work he did in that life of forty years — the range of subjects investigated and discussed: composing the whole theory and practice of our organic and administrative politics, foreign and domestic: the vast body of instructive thought he produced and put in possession of the country; how much he achieved in congress as well as at the bar, to fix the true interpretation, as well as to impress the transcendent value of the Constitution itself, as much altogether as any jurist or statesman since its adoption; how much to establish in the general mind the great doctrine that the government of the United States is a government proper, established by the people of the States, not a compact between sovereign communities, — that within its limits it is supreme, and that whether it is within its limits or not, in any given

exertion of itself, is to be determined by the Supreme Court of the United States — the ultimate arbiter in the last resort — from which there is no appeal but to revolution; how much he did in the course of the discussions which grew out of the proposed mission to Panama, and, at a later day, out of the removal of the deposits, to place the executive department of the government on its true basis, and under its true limitations; to secure to that department all its just powers on the one hand, and on the other hand to vindicate to the legislative department, and especially to the senate, all that belong to them; to arrest the tendencies which he thought at one time threatened to substitute the government of a single will, of a single person of great force of character and boundless popularity, and of a numerical majority of the people, told by the head, without intermediate institutions of any kind, judicial or senatorial, in place of the elaborate system of checks and balances, by which the Constitution aimed at a government of laws, and not of men; how much, attracting less popular attention, but scarcely less important, to complete the great work which experience had shown to be left unfinished by the judiciary act of 1789, by providing for the punishment of all crimes against the United States; how much for securing a safe currency and a true financial system, not only by the promulgation of sound opinions, but by good specific measures adopted, or bad ones defeated; how much to develop the vast material resources of the country, and to push forward the planting of the West — not troubled by any fear of exhausting old States — by a liberal policy of public lands, by vindicating the constitutional power of Congress to make or aid in making large classes of internal improvements, and by acting on that doctrine uniformly from 1813, whenever a road was to be built, or a rapid suppressed, or a canal to be opened, or a breakwater or a lighthouse set up above or below the flow of the tide, if so far beyond the ability of a single State, or of so wide utility to commerce and labor as to rise to the rank of a work general in its influences — another tie of union because another proof of the beneficence of union; how much to protect the vast mechanical and manufacturing interests of the country, a value of many hundreds of millions — after having been lured into existence against his counsels, against

his science of political economy, by a policy of artificial encouragement — from being sacrificed, and the pursuits and plans of large regions and communities broken up, and the acquired skill of the country squandered by a sudden and capricious withdrawal of the promise of the government; how much for the right performance of the most delicate and difficult of all tasks, the ordering of the foreign affairs of a nation, free, sensitive, self-conscious, recognizing, it is true, public law and a morality of the State, binding on the conscience of the State, yet aspiring to power, eminence, and command, its whole frame filled full and all on fire with American feeling, sympathetic with liberty everywhere — how much for the right ordering of the foreign affairs of such a State — aiming in all his policy, from his speech on the Greek question in 1823, to his letters to M. Hulsemann in 1850, to occupy the high, plain, yet dizzy ground which separates influence from intervention, to avow and promulgate warm good-will to humanity, wherever striving to be free, to inquire authentically into the history of its struggles, to take official and avowed pains to ascertain the moment when its success may be recognized, consistently, ever, with the great code that keeps the peace of the world, abstaining from every thing which shall give any nation a right under the law of nations to utter one word of complaint, still less to retaliate by war — the sympathy, but also the neutrality, of Washington — how much to compose with honor a concurrence of difficulties with the first power in the world, which any thing less than the highest degree of discretion, firmness, ability, and means of commanding respect and confidence at home and abroad would inevitably have conducted to the last calamity — a disputed boundary line of many hundred miles, from the St. Croix to the Rocky Mountains, which divided an exasperated and impracticable border population, enlisted the pride and affected the interests and controlled the politics of particular States, as well as pressed on the peace and honor of the nation, which the most popular administrations of the era of the quietest and best public feelings, the times of Monroe and of Jackson, could not adjust; which had grown so complicated with other topics of excitement that one false step, right or left, would have been a step down a precipice — this line settled forever — the claim

of England to search our ships for the suppression of the slave-trade silenced forever, and a new engagement entered into by treaty, binding the national faith to contribute a specific naval force for putting an end to the great crime of man — the long practice of England to enter an American ship and impress from its crew, terminated forever; the deck henceforth guarded sacredly and completely by the flag — how much by profound discernment, by eloquent speech, by devoted life to strengthen the ties of Union, and breathe the fine and strong spirit of nationality through all our numbers — how much, most of all, last of all, after the war with Mexico, needless if his councils had governed, had ended in so vast an acquisition of territory, in presenting to the two great antagonistic sections of our country so vast an area to enter on, so imperial a prize to contend for, and the accursed fraternal strife had begun — how much then, when rising to the measure of a true and difficult and rare greatness, remembering that he had a country to save as well as a local constituency to gratify, laying all the wealth, all the hopes, of an illustrious life on the altar of a hazardous patriotism, he sought and won the more exceeding glory which now attends — which in the next age shall more conspicuously attend — his name who composes an agitated and saves a sinking land — recall this series of conduct and influences, study them carefully in their facts and results — the reading of years — and you attain to a true appreciation of this aspect of his greatness — his public character and life.

For such a review the eulogy of an hour has no room. Such a task demands research, details, proofs, illustrations, a long labor, — a volume of history, composed according to her severest laws, — setting down nothing, depreciating nothing, in malignity to the dead; suppressing nothing, and falsifying nothing, in adulation of the dead; professing fidelity incorrupt, unswerved by hatred or by love, yet able to measure, able to glow in the contemplation of a true greatness, and a vast and varied and useful public life; such a history as the genius and judgment and delicate private and public morality of Everett, assisted by his perfect knowledge of the facts, — not disqualified by his long friendship, unchilled to the last hour, — such a history as he might construct.

Two or three suggestions, occurring on the most general observation of this aspect of his eminence, you will tolerate as I leave the topic.

Remark how very large a proportion of all this class of his acts are wholly beyond and outside of the profession of the law; demanding studies, experience, a turn of mind, a cast of qualities and character, such as that profession neither gives nor exacts. Some single speeches in Congress, of consummate ability, have been made by great lawyers, drawing for the purpose only on the learning, accomplishments, logic, and eloquence of the forum. Such was Chief Justice, then Mr., Marshall's argument in the case of Jonathan Robbins,—turning on the interpretation of a treaty, and the constitutional power of the executive; a demonstration, if there is any in Euclid, anticipating the masterly judgments in the cause of Dartmouth College, or of Gibbons and Ogden, or of Maculloch and the State of Maryland; but such an one as a lawyer like him — if another there was — could have made, in his professional capacity, at the bar of the House, although he had never reflected on practical politics an hour in his life. Such, somewhat, was William Pinkney's speech in the House of Representatives, on the treaty-making power, in 1815, and his two more splendid displays in the Senate, on the Missouri question, in 1820, — the last of which I heard Mr. Clay pronounce the greatest he ever heard. They were pieces of legal reasoning on questions of constitutional law, decorated, of course, by a rhetoric which Hortensius might have envied, and Cicero would not have despised; but they were professional at last. To some extent this is true of some of Mr. Webster's ablest speeches in Congress; or, more accurately, of some of the more important portions of some of his ablest. I should say so of a part of that on the Panama Mission; of the reply to Mr. Hayne, even; and of almost the whole of that reply to Mr. Calhoun on the thesis, "the Constitution not a compact between sovereign States;" the whole series of discussion of the constitutional power of the executive, and the constitutional power of the senate, growing out of the removal of the deposits and the supposed tendencies of our system towards a centralization of government in a President, and a majority of the people, — marked, all of them, by amaz-

ing ability. To these the lawyer who could demonstrate that the charter of this College is a contract within the Constitution, or that the steamboat monopoly usurped upon the executed power of Congress to regulate commerce, was already equal; but to have been the leader, or of the leaders, of his political connection for thirty years; to have been able to instruct and guide on every question of policy, as well as law, which interested the nation in all that time; every question of finance, of currency, of the lands, of the development and care of our resources and labor; to have been of strength to help to lead his country by the hand up to a position of influence and attraction on the highest places of earth, yet to keep her peace and to keep her honor; to have been able to emulate the prescriptive and awful renown of the founders of States, by doing something which will be admitted, when some generations have passed, even more than now, to have contributed to preserve the State,— for all this another man was needed, and he stands forth another and the same.

I am hereafter to speak separately of the political morality which guided him ever; but I would say a word now on two portions of his public life, one of which has been the subject of accusatory, the other of disparaging, criticism, — unsound, unkind, in both instances.

The first comprises his course in regard to a protective policy. He opposed a tariff of protection, it is said, in 1816 and 1820 and 1824; and he opposed, in 1828, a sudden and fatal repeal of such a tariff; and thereupon I have seen it written that "this proved him a man with no great, comprehensive ideas of political economy; who took the fleeting interests and transient opinions of the hour for his norms of conduct;" "who had no sober and serious convictions of his own." I have seen it more decorously written, "that his opinions on this subject were not determined by general principles, but by a consideration of immediate sectional interests."

I will not answer this by what Scaliger says of Lipsius, the arrogant pedant, who dogmatized on the deeper politics as he did on the text of Tacitus and Seneca. *Neque est politicus; nec potest quicquam in politiâ; nihil possunt pedantes in ipsis rebus: nec ego, nec alius doctus possumus scribere in politicis.* I say only that the case totally fails to give color to the charge.

The reasonings of Mr. Webster in 1816, 1820, and 1824, express that, on mature reflection and due and appropriate study, he had embraced the opinion that it was needless and unwise to force American manufactures, by regulation, prematurely to life. Bred in a commercial community; taught from his earliest hours of thought to regard the care of commerce as, in point of fact, a leading object and cause of the Union; to observe around him no other forms of material industry than those of commerce, navigation, fisheries, agriculture, and a few plain and robust mechanical arts, he would come to the study of the political economy of the subject with a certain preoccupation of mind, perhaps; so coming, he did study it at its well-heads, and he adopted his conclusions sincerely, and announced them strongly.

His opinions were overruled by Congress; and a national policy was adopted, holding out all conceivable promises of permanence, under which vast and sensitive investments of capital were made; the expectations, the employments, the habits, of whole ranges of States were recast; and industry, new to us, springing, immature, had been advanced just so far that, if deserted at that moment, there must follow a squandering of skill, a squandering of property, an aggregate of destruction, senseless, needless, and unconscientious, — such as marks the worst form of revolution. On these facts, at a later day, he thought that that industry, the child of government, should not thus capriciously be deserted. "The duty of the government," he said, "at the present moment would seem to be to preserve, not to destroy; to maintain the position which it has assumed; and, for one, I shall feel it an indispensable obligation to hold it steady, as far as in my power, to that degree of protection which it has undertaken to bestow."

And does this prove that these original opinions were hasty, shallow, insincere, unstudied? Consistently with every one of them; consistently with the true spirit and all the aims of the science of political economy itself; consistently with every duty of sober, high, earnest, and moral statesmanship, might not he who resisted the making of a tariff in 1816 deprecate its abandonment in 1828? Does not Adam Smith himself admit that it is "*matter fit for deliberation* how far, or in what manner, it may be proper to restore that free importation after it has

been for some time interrupted"? implying that a general principle of national wealth may be displaced or modified by special circumstances; but would these censors, therefore, cry out that he had no "great and comprehensive ideas of political economy," and was willing to be "determined, not by general principles, but by immediate interests"? Because a father advises his son against an early and injudicious marriage, does it logically follow, or is it ethically right, that, after his advice has been disregarded, he is to recommend desertion of the young wife and the young child? I do not appreciate the beauty and "comprehensiveness" of those scientific ideas which forget that the actual and vast "interests" of the community are exactly what the legislator has to protect; that the concrete of things must limit the foolish wantonness of *à priori* theory; that that department of politics which has for its object the promotion and distribution of the wealth of nations, may very consistently and very scientifically preserve what it would not have created. He who accuses Mr. Webster in this behalf of "having no sober and serious convictions of his own," must afford some other proof than his opposition to the introduction of a policy, and then his willingness to protect it after it had been introduced, and five hundred millions of property, or, however, a countless sum, had been invested under it, or become dependent on its continuance.

I should not think that I consulted his true fame, if I did not add that as he came to observe the practical workings of the protective policy more closely than at first he had done; as he came to observe the working and influences of a various manufacturing and mechanical labor; to see how it employs and develops every faculty; finds occupation for every hour; creates or diffuses and disciplines ingenuity, gathering up every fragment of mind and time so that nothing be lost; how a steady and ample home market assists agriculture; how all the great employments of man are connected by a kindred tie, so that the tilling of the land, navigation, foreign, coastwise, and interior commerce, all grow with the growth, and strengthen with the strength of the industry of the arts, — he came to appreciate, more adequately than at first, how this form of labor contributes to wealth, power, enjoyment, a great civilization; he came more justly to grasp the conception

of how consummate a destruction it would cause — how senseless, how unphilosophical, how immoral — to arrest it suddenly and capriciously — after it had been lured into life; how wiser, how far truer to the principles of the science which seeks to augment the wealth of the State, to refuse to destroy so immense an accumulation of that wealth! In this sense, and in this way, I believe his opinions were matured and modified; but it does not quite follow that they were not, in every period, conscientiously formed and held, or that they were not in the actual circumstances of each period philosophically just, and practically wise.

The other act of his public life to which I alluded is his negotiation of the Treaty of Washington, in 1842, with Great Britain. This act, the country, the world, has judged, and has applauded. Of his administrative ability, his discretion, temper, civil courage, his power of exacting respect and confidence from those with whom he communicated, and of influencing their reason; his knowledge of the true interests and true grandeur of the two great parties to the negotiation; of the States of the Union more immediately concerned, and of the world whose chief concern is peace; and of the intrepidity with which he encountered the disappointed feelings, and disparaging criticisms of the hour, in the consciousness that he had done a good and large deed, and earned a permanent and honest renown — of these it is the truest and most fortunate single exemplification which remains of him. Concerning its difficulty, importance, and merits of all sorts, there were at the time few dissenting opinions among those most conversant with the subject, although there were some; to-day there are fewer still. They are so few — a single sneer by the side of his grave, expressing that "a man who makes such a bargain is not entitled to any great glory among diplomatists," is all that I can call to mind — that I will not arrest the course of your feelings here and now by attempting to refute that "sneer" out of the history of the hour and scene. "Standing here," he said in April, 1846, in the senate of the United States to which he had returned — "standing here to-day, in this senate, and speaking in behalf of the administration of which I formed a part, and in behalf of the two houses of congress who sustained that administration, cordially and

effectively, in everything relating to this treaty, I am willing to appeal to the public men of the age, whether in 1842, and in the city of Washington, something was not done for the suppression of crime; for the true exposition of the principles of public law; for the freedom and security of commerce on the ocean, and for the peace of the world!" In that forum the appeal has been heard, and the praise of a diplomatic achievement of true and permanent glory, has been irreversibly awarded to him. Beyond that forum of the mere "public men of the age," by the larger jurisdiction, the general public, the same praise has been awarded. *Sunt hic etiam sua præmia laudi.* That which I had the honor to say in the senate, in the session of 1843, in a discussion concerning this treaty, is true and applicable, now as then. "Why should I, or why should any one, assume the defence of a treaty here in this body, which but just now, on the amplest consideration, in the confidence and calmness of executive session, was approved by a vote so decisive? Sir, the country by a vote far more decisive, in a proportion very far beyond thirty-nine to nine, has approved your approval. Some there are, some few — I speak not now of any member of this senate — restless, selfish, reckless, "the cankers of a calm world and a long peace," pining with thirst of notoriety, slaves to their hatred of England, to whom the treaty is distasteful; to whom any treaty, and all things but the glare and clamor, the vain pomp and hollow circumstance of war — all but these would be distasteful and dreary. But the country is with you in this act of wisdom and glory; its intelligence; its morality; its labor; its good men; the thoughtful; the philanthropic; the discreet; the masses, are with you." "It confirms the purpose of the wise and good of both nations to be forever at peace with one another, and to put away forever all war from the kindred races: war the most ridiculous of blunders; the most tremendous of crimes; the most comprehensive of evils."

And now to him who in the solitude of his library depreciates this act, first, because there was no danger of a war with England, I answer that according to the overwhelming weight of that kind of evidence by which that kind of question must be tried, that is by the judgment of the great body of well-informed public men at that moment in congress; in the

government; in diplomatic situation — our relations to that power had become so delicate, and so urgent, that unless soon adjusted by negotiation, there was real danger of war. Against such evidence what is the value of the speculation of a private person, ten years afterwards, in the shade of his general studies, whatever his sagacity? The temper of the border population; the tendencies to disorder in Canada, stimulated by sympathizers on our side of the line; the entrance on our territory of a British armed force in 1837; cutting the Caroline out of her harbor, and sending her down the falls; the arrest of McLeod in 1841, a British subject, composing part of that force, by the government of New York, and the threat to hang him, which a person high in office in England declared, in a letter which was shown to me, would raise a cry for war from "whig, radical, and tory" which no ministry could resist; growing irritation caused by the search of our vessels under color of suppressing the slave-trade; the long controversy, almost as old as the government, about the boundary line — so conducted as to have at last convinced each disputant that the other was fraudulent and insincere; as to have enlisted the pride of States; as to have exasperated and agitated a large line of border; as to have entered finally into the tactics of political parties, and the schemes of ambitious men, out-bidding, outracing one another in a competition of clamor and vehemence; a controversy on which England, a European monarchy, a first-class power, near to the great sources of the opinion of the world, by her press, her diplomacy, her universal intercourse, had taken great pains to persuade Europe that our claim was groundless and unconscientious — all these things announced to near observers in public life a crisis at hand which demanded something more than "any sensible and honest man" to encounter; assuring some glory to him who should triumph over it. One such observer said, "Men stood facing each other with guns on their shoulders, upon opposite sides of fordable rivers, thirty yards wide. The discharge of a single musket would have brought on a war whose fires would have encircled the globe."

Is this act disparaged next because what each party had for sixty years claimed as the true line of the old treaty was waived, a line of agreement substituted, and equivalents given and taken

for gain or loss? But herein you will see only, what the nation has seen, the boldness as well as sagacity of Mr. Webster. When the award of the king of the Netherlands, proposing a line of agreement, was offered to President Jackson, that strong will dared not accept it in face of the party politics of Maine — although he advised to offer her the value of a million of dollars to procure her assent to an adjustment which his own mind approved. What he dared not do, inferred some peril I suppose. Yet the experience of twenty years — of sixty years — should have taught all men — had taught many who shrank from acting on it, that the Gordian knot must be cut, not unloosed; that all further attempt to find the true line must be abandoned as an idle and a perilous diplomacy; and that a boundary must be made by a bargain worthy of nations, or must be traced by the point of the bayonet. The merit of Mr. Webster is first that he dared to open the negotiation on this basis. I say the boldness. For, appreciate the domestic difficulties which attended it. In its nature it proposed to give up something which we had thought our own for half a century; to cede of the territory of more than one State; it demanded, therefore, the assent of those States by formal act, committing the State parties in power unequivocally; it was to be undertaken not in the administration of Monroe — elected by the whole people — not in the administration of Jackson, whose vast popularity could carry anything, and withstand anything; but just when the death of President Harrison had scattered his party; had alienated hearts; had severed ties and dissolved connections indispensable to the strength of administration, creating a loud call on Mr. Webster to leave the Cabinet — creating almost the appearance of an unwillingness that he should contribute to its glory even by largest service to the State.

Yet consider finally how he surmounted every difficulty. I will not say with Lord Palmerston, in parliament, that there was "nobody in England who did not admit it a very bad treaty for England." But I may repeat what I said on it in the senate in 1843. "And now, what does the world see? An adjustment concluded by a special minister at Washington, by which four fifths of the value of the whole subject in controversy, is left to you as your own; and by which, for

that one fifth which England desires to possess, she pays you over and over, in national equivalents, imperial equivalents, such as a nation may give, such as a nation may accept, satisfactory to your interests, soothing to your honor, — the navigation of the St. John, — a concession the value of which nobody disputes, — a concession not to Maine alone, but to the whole country, — to commerce, to navigation, as far as winds blow or waters roll, — an *equivalent* of inappreciable value, opening an ample path to the sea, — an equivalent in part for what she receives of the territory in dispute, — a hundred thousand acres in New Hampshire; fifty thousand acres in Vermont and New York; the point of land commanding the great military way to and from Canada by Lake Champlain; the fair and fertile island of St. George; the surrender of a pertinacious pretension to four millions of acres westward of Lake Superior. Sir, I will not say that this adjustment admits, or was designed to admit, that our title to the whole territory in controversy was perfect and indisputable. I will not do so much injustice to the accomplished and excellent person who represented the moderation and the good sense of the English Government and people in this negotiation. I cannot adopt, even for the defence of a treaty which I so much approve, the language of a writer in the 'London Morning Chronicle' of September last, — who has been said to be Lord Palmerston, — which over and over asserts, substantially as his lordship certainly did in parliament, that the adjustment 'virtually acknowledges the American claim to the whole of the disputed territory,' and that 'it gives England no share at all, — absolutely none; for the capitulation virtually and practically yields up the whole territory to the United States, and then brings back a small part of it in exchange for the right of navigating the St. John.' I will not say this. But I say first, that by concession of everybody it is a better treaty than the administration of President Jackson would have most eagerly concluded, if by the offer of a million and a quarter acres of land they could have procured the assent of Maine to it. That treaty she rejected; this she accepts; and I disparage nobody when I maintain that on all parts and all aspects of this question, — national or state, military or industrial, — her opinion is worth

that of the whole country beside. I say next that the treaty admits the substantial justice of your general claim. It admits that in its utmost extent it was plausible, formidable, and made in pure good faith. It admits before the nations that we have not been rapacious; have not made false clamor; that we have asserted our own, and obtained our own. Adjudging to you the possession of four fifths indisputably, she gives you for the one fifth which you concede, equivalents, — given *as equivalents — co nomine*, — on purpose to soothe and save the point of honor; whose intrinsical and comparative value is such that you may accept them as equivalents without reproach to your judgment, or your firmness, or your good faith, — whose intrinsical and comparative value, tried by the maxims, weighed in the scales of imperial traffic, make them a compensation over and over again for all we concede."

But I linger too long upon his public life, and upon this one of its great acts. With what profound conviction of all the difficulties which beset it; with what anxieties for the issue, hope and fear alternately preponderating, he entered on that extreme trial of capacity and good fortune, and carried it through, I shall not soon forget. As if it were last night, I recall the time when, after the senate had ratified it in an evening executive session — by a vote of thirty-nine to nine — I personally carried to him the result, at his own house, and in presence of his wife. Then, indeed, the measure of his glory and happiness seemed full. In the exuberant language of Burke, "I stood near him; and his face, to use the expression of the Scripture of the first martyr, was as if it had been the face of an angel. 'Hope elevated, and joy brightened his crest.' I do not know how others feel; but if I had stood in that situation, I would not have exchanged it for all that kings or people could bestow."

Such eminence and such hold on the public mind as he attained demands extraordinary general intellectual power, adequate mental culture, an impressive, attractive, energetic, and great character, and extraordinary specific power also of influencing the convictions and actions of others by speech. These all he had.

That in the quality of pure and sheer power of intellect he was of the first class of men, is, I think, the universal

judgment of all who have personally witnessed many of his higher displays, and of all who without that opportunity have studied his life in its actions and influences, and studied his mind in its recorded thoughts. Sometimes it has seemed to me that to enable one to appreciate with accuracy, as a psychological speculation, the intrinsic and absolute volume and texture of that brain, — the real rate and measure of those abilities, — it was better not to see or hear him, unless you could see or hear him frequently, and in various modes of exhibition; for undoubtedly there was something in his countenance and bearing so expressive of command, — something even in his conversational language when saying, *parva summisse et modica temperate*, so exquisitely plausible, embodying the likeness at least of a rich truth, the forms at least of a large generalization, in an epithet, — an antithesis, — a pointed phrase, — a broad and peremptory thesis, — and something in his grander forth-putting, when roused by a great subject or occasion exciting his reason and touching his moral sentiments and his heart, so difficult to be resisted, approaching so near, going so far beyond, the higher style of man; that although it left you a very good witness of his power of influencing others, you were not in the best condition immediately to pronounce on the quality or the source of the influence. You saw the flash and heard the peal, and felt the admiration and fear; but from what region it was launched, and by what divinity, and from what Olympian seat, you could not certainly yet tell. To do that you must, if you saw him at all, see him many times; compare him with himself, and with others; follow his dazzling career from his father's house; observe from what competitors he won those laurels; study his discourses, — study them by the side of those of other great men of this country and time, and of other countries and times, conspicuous in the same fields of mental achievement, — look through the crystal water of the style down to the golden sands of the thought; analyze and contrast intellectual power somewhat; consider what kind and what quantity of it has been held by students of mind needful in order to great eminence in the higher mathematics, or metaphysics, or reason of the law; what capacity to analyze, through and through, to the primordial elements of the truths

of that science; yet what wisdom and sobriety, in order to control the wantonness and shun the absurdities of a mere scholastic logic, by systematizing ideas, and combining them, and repressing one by another, thus producing — not a collection of intense and conflicting paradoxes, but — *a code* — scientifically coherent and practically useful, — consider what description and what quantity of mind have been held needful by students of mind in order to conspicuous eminence — long maintained — in statesmanship; that great practical science, that great philosophical art, whose ends are the existence, happiness, and honor of a nation; whose truths are to be drawn from the widest survey of man, — of social man, — of the particular race and particular community for which a government is to be made or kept, or a policy to be provided; "philosophy in action," demanding at once or affording place for the highest speculative genius and the most skilful conduct of men and of affairs; and finally consider what degree and kind of mental power has been found to be required in order to influence the reason of an audience and a nation by speech, — not magnetizing the mere nervous or emotional nature by an effort of that nature, — but operating on reason by reason — a great reputation in forensic and deliberative eloquence, maintained and advancing for a lifetime, — it is thus that we come to be sure that his intellectual power was as real and as uniform as its very happiest particular display had been imposing and remarkable.

It was not quite so easy to analyze that power, to compare or contrast it with that of other mental celebrities, and show how it differed or resembled, as it was to discern its existence.

Whether he would have excelled as much in other fields of exertion — in speculative philosophy, for example, in any of its departments — is a problem impossible to determine and needless to move. To me it seems quite clear that the whole wealth of his powers, his whole emotional nature, his eloquent feeling, his matchless capacity to affect others' conduct by affecting their practical judgments, could not have been known, could not have been poured forth in a stream so rich and strong and full, could not have so reacted on and aided and winged the mighty intelligence, in any other walk of mind, or life, than that he chose; that in any other

there must have been some disjoining of qualities which God had united, — some divorce of pure intellect from the helps or hindrances or companionship of common sense and beautiful genius; and that in any field of speculative ideas but half of him, or part of him, could have found its sphere. What that part might have been or done, it is vain to inquire.

I have been told that the assertion has been hazarded that he "was great in understanding; deficient in the large reason;" and to prove this distinction he is compared disadvantageously, with "Socrates; Aristotle; Plato; Leibnitz; Newton; and Descartes." If this means that he did not devote his mind, such as it was, to their speculations, it is true; but that would not prove that he had not as much "higher reason." Where was Bacon's *higher reason* when he was composing his reading on the Statute of Uses? Had he lost it? or was he only not employing it? or was he employing it on an investigation of law? If it means that he had not as much absolute intellectual power as they, or could not, in their departments, have done what they did, it may be dismissed as a dogma incapable of proof, and incapable of refutation; ineffectual as a disparagement; unphilosophical as a comparison.

It is too common with those who come from the reveries of a cloistered speculation to judge a practical life, to say of him, and such as he, that they "do not enlarge universal law, and first principles; and philosophical ideas;" that "they add no new maxim formed by induction out of human history and old thought." In this there is some truth; and yet it totally fails to prove that they do not possess all the intellectual power, and all the specific form of intellectual power, required for such a description of achievement; and it totally fails, too, to prove that they do not use it quite as truly to "the glory of God, and the bettering of man's estate." Whether they possess such power or not, the evidence does not disprove: and it is a pedantic dogmatism, if it is not a malignant dogmatism, which, *from such evidence*, pronounces that they do not; but it is doubtless so, that by an original bias; by accidental circumstances or deliberate choice, he determined early to devote himself to a practical and great duty, and that was to uphold a recent, delicate, and complex political system, which his studies, his sagacity, taught him, as Solon learned, was the

best the people could bear; to uphold it; to adapt its essential principles and its actual organism to the great changes of his time; the enlarging territory; enlarging numbers; sharper antagonisms; mightier passions; a new nationality; and under it, and by means of it, and by a steady government, a wise policy of business, a temperate conduct of foreign relations, to enable a people to develop their resources, and fulfil their mission. This he selected as his work on earth; this his task; this, if well done, his consolation, his joy, his triumph! To this, call it, in comparison with the meditations of philosophy, humble or high, he brought all the vast gifts of intellect, whatever they were, wherewith God had enriched him. And now, do they infer that, because he selected such a work to do he could not have possessed the higher form of intellectual power; or do they say that, because, having selected it, he performed it with a masterly and uniform sagacity and prudence and good sense, using ever the appropriate means to the selected end; that therefore he could not have possessed the higher form of intellectual power? Because all his life long he recognized that his vocation was that of a statesman and a jurist, not that of a thinker and dreamer in the shade, still less of a general agitator; that his duties connected themselves mainly with an existing stupendous political order of things, to be kept — to be adapted with all possible civil discretion and temper to the growth of the nation — but by no means to be exchanged for any quantity of amorphous matter in the form of "universal law" or new maxims and great ideas born since the last change of the moon — because he quite habitually spoke the language of the Constitution and the law, not the phraseology of a new philosophy; confining himself very much to inculcating historical, traditional, and indispensable maxims, — neutrality; justice; good faith; observance of fundamental compacts of Union and the like — because it was America — our America — he sought to preserve, and to set forward to her glory — not so much an abstract conception of humanity — because he could combine many ideas; many elements; many antagonisms; in a harmonious, and noble practical politics, instead of fastening on one only, and — that sure sign of small or perverted ability — aggravating it to disease and falsehood — is it therefore inferred that he had not the larger form of intellectual power?

And this power was not oppressed, but aided and accomplished by exercise the most constant, the most severe, the most stimulant, and by a force of will as remarkable as his genius, and by adequate mental and tasteful culture. How much the eminent greatness it reached is due to the various and lofty competition to which he brought, if he could, the most careful preparation — competition with adversaries *cum quibus certare erat gloriosius, quam omnino adversarios non habere, cum præsertim non modo, nunquam sit aut illorum ab ipso cursus impeditus, aut ab ipsis suus, sed contra semper alter ab altero adjutus, et communicando, et monendo, et favendo*, you may well appreciate.

I claim much, too, under the name of mere mental culture. Remark his style. I allow its full weight to the Horatian maxim, *scribendi rectè sapere est et principium et fons*, and I admit that he had deep and exquisite judgment, largely of the gift of God. But such a style as his is due also to art, to practice, — in the matter of style, incessant, — to great examples of fine writing, turned by the nightly and the daily hand; to Cicero, through whose pellucid, deep seas the pearl shows distinct and large and near, as if within the arm's reach; to Virgil, whose magic of words, whose exquisite structure and "rich economy of expression," no other writer ever equalled; to our English Bible, and especially to the prophetical writings, and of these especially to Ezekiel, of some of whose peculiarities, and among them that of the repetition of single words or phrases, for emphasis and impression, a friend has called my attention to some very striking illustrations; to Shakspeare, of the style of whose comic dialogue we may, in the language of the great critic, assert "that it is that which in the English nation is never to become obsolete, a certain mode of phraseology so consonant and congenial to analogy, to principles of the language, as to remain settled and unaltered, — a style above grossness, below modish and pedantic forms of speech, where propriety resides;" to Addison, whom Johnson, Mackintosh, and Macaulay concur to put at the head of all fine writers, for the amenity, delicacy, and unostentatious elegance of his English; to Pope, polished, condensed, sententious; to Johnson and Burke, in whom all the affluence and all the energy of our tongue, in both its great elements of Saxon and

Latin, might be exemplified; to the study and comparison, but not the copying, of authors such as these; to habits of writing and speaking and conversing on the capital theory of always doing his best, — thus, somewhat, I think, was acquired that remarkable production, "the last work of combined study and genius," his rich, clear, correct, harmonious, and weighty style of prose.

Beyond these studies and exercises of taste, he had read variously and judiciously. If any public man, or any man, had more thoroughly mastered British constitutional and general history, or the history of British legislation, or could deduce the progress, eras, causes, and hindrances of British liberty in more prompt, exact, and copious detail, or had in his memory, at any given moment, a more ample political biography, or political literature, I do not know him. His library of English history, and of all history, was always rich, select, and catholic; and I well recollect hearing him, in 1819, while attending a commencement of this College, at an evening party, sketch, with great emphasis and interest of manner, the merits of George Buchanan, the historian of Scotland, — his Latinity and eloquence almost equal to Livy's, his love of liberty and his genius greater, and his title to credit not much worse. American history and American political literature he had by heart. The long series of influences that trained us for representative and free government; that other series of influences which moulded us into a united government, — the colonial era, the age of controversy before the Revolution; every scene and every person in that great tragic action, the age of controversy following the Revolution and preceding the Constitution, unlike the earlier, in which we divided among ourselves on the greatest questions which can engage the mind of America, — the questions of the existence of a national government, of the continued existence of the State governments, on the partition of powers, on the umpirage of disputes between them, — a controversy on which the destiny of the New World was staked; every problem which has successively engaged our politics, and every name which has figured in them, — the whole stream of our time was open, clear, and present ever to his eye.

I think, too, that, though not a frequent and ambitious citer

of authorities, he had read, in the course of the study of his profession or politics, and had meditated all the great writers and thinkers by whom the principles of republican government, and all free governments, are most authoritatively expounded. Aristotle, Cicero, Machiavel, — one of whose discourses on Livy maintains, in so masterly an argument, how much wiser and more constant are the people than the prince, a doctrine of liberty consolatory and full of joy, — Harrington, Milton, Sidney, Locke, I know he had read and weighed.

Other classes of information there were, — partly obtained from books, partly from observation, to some extent referable to his two main employments of politics and law, — by which he was distinguished remarkably. Thus, nobody but was struck with his knowledge of civil and physical geography, and, to a less extent, of geology and races; of all the great routes and marts of our foreign, coastwise, and interior commerce, the subjects which it exchanges, the whole circle of industry it comprehends and passes around; the kinds of our mechanical and manufacturing productions, and their relations to all labor and life; the history, theories, and practice of agriculture, — our own and that of other countries, — and its relations to government, liberty, happiness, and the character of nations. This kind of information enriched and assisted all his public efforts; but to appreciate the variety and accuracy of his knowledge, and even the true compass of his mind, you must have had some familiarity with his friendly written correspondence, and you must have conversed with him with some degree of freedom. There, more than in senatorial or forensic debate, gleamed the true riches of his genius, as well as the goodness of his large heart, and the kindness of his noble nature. There, with no longer a great part to discharge, no longer compelled to weigh and measure propositions, to tread the dizzy heights which part the antagonisms of the Constitution, to put aside allusions and illustrations which crowded on his mind in action, but which the dignity of a public appearance had to reject, in the confidence of hospitality, which ever he dispensed as a prince who also was a friend, his memory, — one of his most extraordinary faculties, quite in proportion to all the rest, — swept free over the readings and labors of more than half a century; and then, allusions, direct and ready

quotations, a passing, mature criticism, sometimes only a recollection of the mere emotions which a glorious passage or interesting event had once excited, darkening for a moment the face and filling the eye, often an instructive exposition of a current maxim of philosophy or politics, the history of an invention, the recital of some incident casting a new light on some transaction or some institution, — this flow of unstudied conversation, quite as remarkable as any other exhibition of his mind, better than any other, perhaps, at once opened an unexpected glimpse of his various acquirements, and gave you to experience, delightedly, that the "mild sentiments have their eloquence as well as the stormy passions."

There must be added, next, the element of an impressive character, inspiring regard, trust, and admiration, not unmingled with love. It had, I think, intrinsically a charm such as belongs only to a good, noble, and beautiful nature. In its combination with so much fame, so much force of will, and so much intellect, it filled and fascinated the imagination and heart. It was affectionate in childhood and youth, and it was more than ever so in the few last months of his long life. It is the universal testimony that he gave to his parents, in largest measure, honor, love, obedience; that he eagerly appropriated the first means which he could command to relieve the father from the debts contracted to educate his brother and himself; that he selected his first place of professional practice that he might soothe the coming on of his old age; that all through life he neglected no occasion, — sometimes when leaning on the arm of a friend, alone, with faltering voice, sometimes in the presence of great assemblies, where the tide of general emotion made it graceful, — to express his "affectionate veneration of him who reared and defended the log cabin in which his elder brothers and sisters were born, against savage violence and destruction, cherished all the domestic virtues beneath its roof, and, through the fire and blood of some years of revolutionary war, shrank from no danger, no toil, no sacrifice, to serve his country, and to raise his children to a condition better than his own."

Equally beautiful was his love of all his kindred and of all his friends. When I hear him accused of selfishness, and a cold, bad nature, I recall him lying sleepless all night, not

without tears of boyhood, conferring with Ezekiel how the darling desire of both hearts should be compassed, and he, too, admitted to the precious privileges of education; courageously pleading the cause of both brothers in the morning; prevailing by the wise and discerning affection of the mother; suspending his studies of the law, and registering deeds and teaching school to earn the means, for both, of availing themselves of the opportunity which the parental self-sacrifice had placed within their reach; loving him through life, mourning him when dead, with a love and a sorrow very wonderful, passing the sorrow of woman; I recall the husband, the father of the living and of the early departed, the friend, the counsellor of many years, and my heart grows too full and liquid for the refutation of words.

His affectionate nature, craving ever friendship, as well as the presence of kindred blood, diffused itself through all his private life, gave sincerity to all his hospitalities, kindness to his eye, warmth to the pressure of his hand; made his greatness and genius unbend themselves to the playfulness of childhood, flowed out in graceful memories indulged of the past or the dead, of incidents when life was young and promised to be happy, — gave generous sketches of his rivals, — the high contention now hidden by the handful of earth, — hours passed fifty years ago with great authors, recalled for the vernal emotions which then they made to live and revel in the soul. And from these conversations of friendship, no man, — no man, old or young, — went away to remember one word of profaneness, one allusion of indelicacy, one impure thought, one unbelieving suggestion, one doubt cast on the reality of virtue, of patriotism, of enthusiasm, of the progress of man, — one doubt cast on righteousness, or temperance, or judgment to come.

Every one of his tastes and recreations announced the same type of character. His love of agriculture, of sports in the open air, of the outward world in starlight and storms, and sea and boundless wilderness, — partly a result of the influences of the first fourteen years of his life, perpetuated like its other affections and its other lessons of a mother's love — the Psalms, the Bible, the stories of the wars, — partly the return of an unsophisticated and healthful nature, tiring, for a space, of the idle business of political life, its distinctions, its arti-

ficialities, to employments, to sensations which interest without agitating the universal race alike, as God has framed it, in which one feels himself only a man, fashioned from the earth, set to till it, appointed to return to it, yet made in the image of his Maker, and with a spirit that shall not die, — all displayed a man whom the most various intercourse with the world, the longest career of strife and honors, the consciousness of intellectual supremacy, the coming in of a wide fame, constantly enlarging, left, as he was at first, natural, simple, manly, genial, kind.

You will all concur, I think, with a learned friend who thus calls my attention to the resemblance of his character, in some of these particulars, to that of Walter Scott.

"Nature endowed both with athletic frames, and a noble presence; both passionately loved rural life, its labors and sports; possessed a manly simplicity, free from all affectation, genial and social tastes, full minds, and happy elocution; both stamped themselves with indelible marks upon the age in which they lived; both were laborious, and always with high and virtuous aims, ardent in patriotism, overflowing with love of 'kindred blood,' and, above all, frank and unostentatious Christians."

I have learned by evidence the most direct and satisfactory, that in the last months of his life, the whole affectionateness of his nature; his consideration of others; his gentleness; his desire to make them happy and to see them happy, seemed to come out in more and more beautiful and habitual expression than ever before. The long day's public tasks were felt to be done; the cares, the uncertainties, the mental conflicts of high place, were ended; and he came home to recover himself for the few years which he might still expect would be his before he should go hence to be here no more. And there, I am assured and fully believe, no unbecoming regrets pursued him; no discontent, as for injustice suffered or expectations unfulfilled; no self-reproach for anything done or anything omitted by himself; no irritation, no peevishness unworthy of his noble nature; but instead, love and hope for his country, when she became the subject of conversation; and for all around him, the dearest and most indifferent, for all breathing things about him, the overflow of the kindest heart growing in gentleness and benev-

olence; paternal, patriarchal affections, seeming to become more natural, warm, and communicative every hour. Softer and yet brighter grew the tints on the sky of parting day; and the last lingering rays, more even than the glories of noon, announced how divine was the source from which they proceeded; how incapable to be quenched; how certain to rise on a morning which no night should follow.

Such a character was made to be loved. It was loved. Those who knew and saw it in its hour of calm — those who could repose on that soft green, loved him. His plain neighbors loved him; and one said, when he was laid in his grave, "How lonesome the world seems!" Educated young men loved him. The ministers of the gospel, the general intelligence of the country, the masses afar off, loved him. True, they had not found in his speeches, read by millions, so much adulation of the people; so much of the music which robs the public reason of itself; so many phrases of humanity and philanthropy; and some had told them he was lofty and cold, — solitary in his greatness; but every year they came nearer and nearer to him, and as they came nearer, they loved him better; they heard how tender the son had been, the husband, the brother, the father, the friend, and neighbor; that he was plain, simple, natural, generous, hospitable, — the heart larger than the brain; that he loved little children and reverenced God, the Scriptures, the Sabbath-day, the Constitution, and the law, — and their hearts clave unto him. More truly of him than even of the great naval darling of England might it be said, that "his presence would set the church-bells ringing, and give school-boys a holiday, — would bring children from school and old men from the chimney-corner, to gaze on him ere he died." The great and unavailing lamentation first revealed the deep place he had in the hearts of his countrymen.

You are now to add to this his extraordinary power of influencing the convictions of others by speech, and you have completed the survey of the means of his greatness. And here, again, I begin, by admiring an aggregate, made up of excellences and triumphs, ordinarily deemed incompatible. He spoke with consummate ability to the bench, and yet exactly as, according to every sound canon of taste and ethics, the bench

ought to be addressed. He spoke with consummate ability to the jury, and yet exactly as, according to every sound canon, that totally different tribunal ought to be addressed. In the halls of congress, before the people assembled for political discussion in masses, before audiences smaller and more select, assembled for some solemn commemoration of the past or of the dead, — in each of these, again, his speech, of the first form of ability, was exactly adapted, also, to the critical proprieties of the place; each achieved, when delivered, the most instant and specific success of eloquence, — some of them in a splendid and remarkable degree; and yet, stranger still, when reduced to writing, as they fell from his lips, they compose a body of reading, — in many volumes, — solid, clear, rich, and full of harmony, — a classical and permanent political literature.

And yet, all these modes of his eloquence, exactly adapted each to its stage and its end, were stamped with his image and superscription, identified by characteristics incapable to be counterfeited, and impossible to be mistaken. The same high power of reason, intent in every one to explore and display some truth; some truth of judicial, or historical, or biographical fact; some truth of law, deduced by construction, perhaps, or by illation; some truth of policy, for want whereof a nation, generations, may be the worse, — reason seeking and unfolding truth; the same tone, in all, of deep earnestness, expressive of strong desire that that which he felt to be important should be accepted as true, and spring up to action; the same transparent, plain, forcible, and direct speech, conveying his exact thought to the mind, — not something less or more; the same sovereignty of form, of brow, and eye, and tone, and manner, — everywhere the intellectual king of men, standing before you, — that same marvellousness of qualities and results, residing, I know not where, in words, in pictures, in the ordering of ideas, in felicities indescribable, by means whereof, coming from his tongue, all things seemed mended, — truth seemed more true, probability more plausible, greatness more grand, goodness more awful, every affection more tender, than when coming from other tongues, — these are, in all, his eloquence. But sometimes it became individualized, and discriminated even from itself; sometimes place and circumstances, great interests at

stake, a stage, an audience fitted for the highest historic action, a crisis, personal or national, upon him, stirred the depths of that emotional nature, as the anger of the goddess stirs the sea on which the great epic is beginning; strong passions, themselves kindled to intensity, quickened every faculty to a new life; the stimulated associations of ideas brought all treasures of thought and knowledge within command, the spell, which often held his imagination fast, dissolved, and she arose and gave him to choose of her urn of gold; earnestness became vehemence, the simple, perspicuous, measured, and direct language became a headlong, full, and burning tide of speech; the discourse of reason, wisdom, gravity, and beauty, changed to that Δεινότης, that rarest consummate eloquence, — grand, rapid, pathetic, terrible; the *aliquid immensum infinitumque* that Cicero might have recognized; the master triumph of man in the rarest opportunity of his noblest power.

Such elevation above himself, in congressional debate, was most uncommon. Some such there were in the great discussions of executive power following the removal of the deposits, which they who heard them will never forget, and some which rest in the tradition of hearers only. But there were other fields of oratory on which, under the influence of more uncommon springs of inspiration, he exemplified, in still other forms, an eloquence in which I do not know that he has had a superior among men. Addressing masses by tens of thousands in the open air, on the urgent political questions of the day, or designated to lead the meditations of an hour devoted to the remembrance of some national era, or of some incident marking the progress of the nation, and lifting him up to a view of what is, and what is past, and some indistinct revelation of the glory that lies in the future, or of some great historical name, just borne by the nation to his tomb, — we have learned that then and there, at the base of Bunker Hill, before the corner-stone was laid, and again when from the finished column the centuries looked on him; in Faneuil Hall, mourning for those with whose spoken or written eloquence of freedom its arches had so often resounded; on the rock of Plymouth; before the capitol, of which there shall not be one stone left on another, before his memory shall have ceased to live, — in such scenes, unfettered by the laws of forensic or

parliamentary debate; multitudes uncounted lifting up their eyes to him; some great historical scenes of America around; all symbols of her glory and art and power and fortune there; voices of the past, not unheard; shapes beckoning from the future, not unseen,—sometimes that mighty intellect, borne upwards to a height and kindled to an illumination which we shall see no more, wrought out, as it were, in an instant, a picture of vision, warning, prediction; the progress of the nation; the contrasts of its eras; the heroic deaths; the motives to patriotism; the maxims and arts imperial by which the glory has been gathered and may be heightened, — wrought out, in an instant, a picture to fade only when all record of our mind shall die.

In looking over the public remains of his oratory, it is striking to remark how, even in that most sober and massive understanding and nature, you see gathered and expressed the characteristic sentiments and the passing time of our America. It is the strong old oak which ascends before you; yet our soil, our heaven, are attested in it as perfectly as if it were a flower that could grow in no other climate and in no other hour of the year or day. Let me instance in one thing only. It is a peculiarity of some schools of eloquence that they embody and utter, not merely the individual genius and character of the speaker, but a national consciousness, — a national era, a mood, a hope, a dread, a despair, — in which you listen to the spoken history of the time. There is an eloquence of an expiring nation, such as seems to sadden the glorious speech of Demosthenes; such as breathes grand and gloomy from the visions of the prophets of the last days of Israel and Judah; such as gave a spell to the expression of Grattan and of Kossuth, — the sweetest, most mournful, most awful of the words which man may utter, or which man may hear,—the eloquence of a perishing nation. There is another eloquence, in which the national consciousness of a young or renewed and vast strength, of trust in a dazzling, certain, and limitless future, an inward glorying in victories yet to be won, sounds out as by voice of clarion, challenging to contest for the highest prize of earth; such as that in which the leader of Israel in its first days holds up to the new nation the Land of Promise; such as that which in the well imagined speeches

scattered by Livy over the history of the "majestic series of victories," speaks the Roman consciousness of growing aggrandizement which should subject the world; such as that through which, at the tribunes of her revolution, in the bulletins of her rising soldier, France told to the world her dream of glory. And of this kind somewhat is ours; cheerful, hopeful, trusting, as befits youth and spring; the eloquence of a State beginning to ascend to the first class of power, eminence, and consideration, and conscious of itself. It is to no purpose that they tell you it is in bad taste; that it partakes of arrogance and vanity; that a true national good breeding would not know, or seem to know, whether the nation is old or young; whether the tides of being are in their flow or ebb; whether these coursers of the sun are sinking slowly to rest, wearied with a journey of a thousand years, or just bounding from the Orient unbreathed. Higher laws than those of taste determine the consciousness of nations. Higher laws than those of taste determine the general forms of the expression of that consciousness. Let the downward age of America find its orators and poets and artists to erect its spirit, or grace and soothe its dying; be it ours to go up with Webster to the rock, the monument, the capitol, and bid "the distant generations hail!"

In this connection remark, somewhat more generally, to how extraordinary an extent he had by his acts, words, thoughts, or the events of his life, associated himself forever in the memory of all of us, with every historical incident, or at least with every historical epoch; with every policy; with every glory; with every great name and fundamental institution, and grand or beautiful image, which are peculiarly and properly American. Look backwards to the planting of Plymouth and Jamestown; to the various scenes of colonial life in peace and war; to the opening and march and close of the revolutionary drama,—to the age of the Constitution; to Washington and Franklin and Adams and Jefferson; to the whole train of causes from the Reformation downwards, which prepared us to be Republicans; to that other train of causes which led us to be Unionists. — look round on field, workshop, and deck, and hear the music of labor rewarded, fed, and protected, — look on the

bright sisterhood of the States, each singing as a seraph in her motion, yet blending in a common beam and swelling a common harmony, — and there is nothing which does not bring him by some tie to the memory of America.

We seem to see his form and hear his deep grave speech everywhere. By some felicity of his personal life; by some wise, deep, or beautiful word spoken or written; by some service of his own, or some commemoration of the services of others, it has come to pass that "our granite hills, our inland seas and prairies, and fresh, unbounded, magnificent wilderness;" our encircling ocean; the resting-place of the Pilgrims; our new-born sister of the Pacific; our popular assemblies; our free schools; all our cherished doctrines of education, and of the influence of religion, and material policy and law, and the Constitution, give us back his name. What American landscape will you look on; what subject of American interest will you study; what source of hope or of anxiety, as an American, will you acknowledge that it does not recall him?

I have reserved, until I could treat it as a separate and final topic, the consideration of the morality of Mr. Webster's public character and life. To his true fame, — to the kind and degree of influence which that large series of great actions and those embodied thoughts of great intellect are to exert on the future, — this is the all-important consideration. In the last speech which he made in the senate, — the last of those which he made, as he said, for the Constitution and the Union, and which he might have commended, as Bacon his name and memory "to men's charitable speeches, to foreign nations, and the next ages," — yet with a better hope he asserted, "The ends I aim at shall be those of my Country, my God, and Truth." Is that praise his?

Until the seventh day of March, 1850, I think it would have been accorded to him by an almost universal acclaim, as general and as expressive of profound and intelligent conviction, and of enthusiasm, love, and trust, as ever saluted conspicuous statesmanship, — tried by many crises of affairs in a great nation, agitated ever by parties, and wholly free.

That he had admitted into his heart a desire to win, by

deserving them, the highest forms of public honor, many would have said; and they who loved him most fondly, and felt the truest solicitude that he should carry a good conscience and pure fame brightening to the end, would not have feared to concede. For he was not ignorant of himself; and he therefore knew that there was nothing within the Union, Constitution, and Law, too high or too large or too difficult for him. He believed that his natural or his acquired abilities, and his policy of administration, would contribute to the true glory of America; and he held no theory of ethics which required him to disparage, to suppress, to ignore vast capacities of public service merely because they were his own. If the fleets of Greece were assembling, and her tribes buckling on their arms from Laconia to Mount Olympus, from the promontory of Sunium to the isle farthest to the west, and the great epic action was opening, it was not for him to feign insanity or idiocy, to escape the perils and the honor of command. But that all this in him had been ever in subordination to a principled and beautiful public virtue; that every sectional bias, every party tie, as well as every personal aspiring, had been uniformly held by him for nothing against the claims of country; that nothing lower than country seemed worthy enough — nothing smaller than country large enough — for that great heart, would not have been questioned by a whisper. Ah! if at any hour before that day he had died, how would then the great procession of the people of America — the great triumphal procession of the dead — have moved onward to his grave — the sublimity of national sorrow, not contrasted, not outraged by one feeble voice of calumny!

In that antecedent public life, embracing from 1812 to 1850 — a period of thirty-eight years — I find grandest proofs of the genuineness and comprehensiveness of his patriotism, and the boldness and manliness of his public virtue. He began his career of politics as a Federalist. Such was his father — so beloved and revered; such his literary and professional companions; such, although by no very decisive or certain preponderance, the community in which he was bred and was to live. Under that name of party he entered congress, personally, and by connection, opposed to the war, which was thought to bear with such extreme sectional severity upon the

North and East. And yet, one might almost say that the only thing he imbibed from Federalists or Federalism was love and admiration for the Constitution as the means of union. That passion he did inherit from them; that he cherished.

He came into congress, opposed, as I have said, to the war; and behold him, if you would judge of the quality of his political ethics, in opposition. Did those eloquent lips, at a time of life when vehemence and imprudence are expected, if ever, and not ungraceful, let fall ever one word of faction? Did he ever deny one power to the general government, which the soundest expositors of all creeds have allowed it? Did he ever breathe a syllable which could excite a region, a State, a family of States, against the Union, — which could hold out hope or aid to the enemy? — which sought or tended to turn back or to chill the fiery tide of a new and intense nationality, then bursting up, to flow and burn till all things appointed to America to do shall be fulfilled? These questions in their substance, he put to Mr. Calhoun, in 1838, in the senate, and that great man — one of the authors of the war — just then, only then, in relations unfriendly to Mr. Webster, and who had just insinuated a reproach on his conduct in the war, was silent. Did Mr. Webster content himself even with objecting to the details of the mode in which the administration waged the war? No, indeed. Taught by his constitutional studies that the Union was made in part for commerce, familiar with the habits of our long line of coast, knowing well how many sailors and fishermen, driven from every sea by embargo and war, burned to go to the gun-deck and avenge the long wrongs of England on the element where she had inflicted them, his opposition to the war manifested itself by teaching the nation that the deck was her field of fame. *Non illi imperium pelagi sævumque tridentum, sed nobis, sorte datum.*

But I might recall other evidence of the sterling and unusual qualities of his public virtue. Look in how manly a sort he — not merely conducted a particular argument or a particular speech, but in how manly a sort, in how high a moral tone, he uniformly dealt with the mind of his country. Politicians got an advantage of him for this while he lived; let the dead have just praise to-day. Our public life is one long electioneering, and even Burke tells you that at popular elec-

tions the most rigorous casuists will remit something of their severity. But where do you find him flattering his countrymen, indirectly or directly, for a vote? On what did he ever place himself but good counsels and useful service? His arts were manly arts, and he never saw a day of temptation when he would not rather fall than stand on any other. Who ever heard that voice cheering the people on to rapacity, to injustice, to a vain and guilty glory? Who ever saw that pencil of light hold up a picture of manifest destiny to dazzle the fancy? How anxiously rather, in season and out, by the energetic eloquence of his youth, by his counsels bequeathed on the verge of a timely grave, he preferred to teach that by all possible acquired sobriety of mind, by asking reverently of the past, by obedience to the law, by habits of patient and legitimate labor, by the cultivation of the mind, by the fear and worship of God, we educate ourselves for the future that is revealing. Men said he did not sympathize with the masses, because his phraseology was rather of an old and simple school, rejecting the nauseous and vain repetitions of humanity and philanthropy, and progress and brotherhood, in which may lurk heresies so dreadful, of socialism or disunion; in which a selfish, hollow, and shallow ambition may mask itself, — the siren song which would lure the pilot from his course. But I say that he did sympathize with them; and, because he did, he came to them not with adulation, but with truth; not with words to please, but with measures to serve them; not that his popular sympathies were less, but that his personal and intellectual dignity and his public morality were greater.

And on the seventh day of March, and down to the final scene, might he not still say as ever before, that "all the ends he aimed at were his country's, his God's, and truth's." He declared, "I speak to-day for the preservation of the Union. Hear me for my cause. I speak to-day out of a solicitous and anxious heart for the restoration to the country of that quiet and harmony, which make the blessings of this Union so rich and so dear to us all. These are the motives and the sole motives that influence me." If in that declaration he was sincere, was he not bound in conscience to give the counsels of that day? What were they? What was the single one for which his political morality was called in question?

Only that a provision of the Federal Constitution, ordaining the restitution of fugitive slaves, should be executed according to its true meaning. This only. And might he not in good conscience keep the Constitution in this part, and in all, for the preservation of the Union?

Under his oath to support it, and to support it all, and with his opinions of that duty so long held, proclaimed uniformly, in whose vindication on some great days, he had found the chief opportunity of his personal glory, might he not, in good conscience support it, and all of it, even if he could not — and no human intelligence could, certainly — know, that the extreme evil would follow, in immediate consequence, its violation? Was it so recent a doctrine of his that the Constitution was obligatory upon the national and individual conscience, that you should ascribe it to sudden and irresistible temptation? Why, what had he, quite down to the seventh of March, that more truly individualized him? — what had he more characteristically his own? — wherewithal had he to glory more or other than all beside, than this very doctrine of the sacred and permanent obligation to support each and all parts of that great compact of union and justice? Had not this been his distinction, his *speciality*, — almost the foible of his greatness, — the darling and master passion ever? Consider that that was a sentiment which had been part of his conscious nature for more than sixty years; that from the time he bought his first copy of the Constitution on the handkerchief, and revered parental lips had commended it to him, with all other holy and beautiful things, along with lessons of reverence to God, and the belief and love of His Scriptures, along with the doctrine of the catechism, the unequalled music of Watts, the name of Washington, — there had never been an hour that he had not held it the master work of man, — just in its ethics, consummate in its practical wisdom, paramount in its injunctions; that every year of life had deepened the original impression; that as his mind opened, and his associations widened, he found that every one for whom he felt respect, instructors, theological and moral teachers, his entire party connection, the opposite party, and the whole country, so held it, too; that its fruits of more than half a century of union, of happiness, of renown, bore constant and clear witness to it in his mind, and that it

chanced that certain emergent and rare occasions had devolved on him to stand forth to maintain it, to vindicate its interpretation, to vindicate its authority, to unfold its workings and uses; that he had so acquitted himself of that opportunity as to have won the title of its Expounder and Defender, so that his proudest memories, his most prized renown, referred to it, and were entwined with it — and say whether with such antecedents. readiness to execute, or disposition to evade, would have been the hardest to explain; likeliest to suggest the surmise of a new temptation! He who knows anything of man, knows that his vote for beginning the restoration of harmony by keeping the whole Constitution, was determined, was necessitated, by the great law of sequences, — a great law of cause and effect, running back to his mother's arms, as resistless as the law which moves the system about the sun, — and that he must have given it, although it had been opened to him in vision, that within the next natural day his "eyes should be turned to behold for the last time the sun in heaven."

To accuse him in that act of "sinning against his own conscience," is to charge one of these things: either that no well-instructed conscience can approve and maintain the Constitution, and each of its parts, and therefore that his, by inference, did not approve it; or that he had never employed the proper means of instructing his conscience, and therefore its approval, if it were given, was itself an immorality. The accuser must assert one of these propositions. He will not deny, I take it for granted, that the conscience requires to be instructed by political teaching, in order to guide the citizen, or the public man, aright, in the matter of political duties. Will he say that the moral sentiments alone, whatever their origin — whether factitious and derivative, or parcel of the spirit of the child and born with it — that they alone, by force of strict and mere ethical training, become qualified to pronounce authoritatively whether the Constitution, or any other vast and complex civil policy, as a whole, whereby a nation is created and preserved, ought to have been made, or ought to be executed? Will he venture to tell you, that if your conscience approves the Union, the Constitution in all its parts, and the law which administers it, that you are bound to obey and uphold them; and if it disapproves, you must, according

to your measure, and in your circles of agitation, disobey and subvert them, and leave the matter there — forgetting or designedly omitting to tell you also that you are bound, in all good faith and diligence to resort to studies and to teachers *ab extra* — in order to determine whether the conscience *ought* to approve or disapprove the Union, the Constitution, and the law, *in view of the whole aggregate of their nature and fruits?* Does he not perfectly know that this moral faculty, however trained, by mere moral institution, specifically directed to that end, to be tender, sensitive, and peremptory, is totally unequal to decide on any action, or any thing, but the very simplest; that which produces the most palpable and immediate result of unmixed good, or unmixed evil; and that when it comes to judge on the great mixed cases of the world, where the consequences are numerous, their development slow and successive, the light and shadow of a blended and multiform good and evil spread out on the lifetime of a nation, that then morality must borrow from history; from politics; from reason operating on history and politics, her elements of determination? I think he must agree to this. He must agree, I think, that to single out one provision in a political system of many parts and of elaborate interdependence, to take it all alone, exactly as it stands, and without attention to its origin and history; the necessities, morally resistless, which prescribed its introduction into the system, the unmeasured good in other forms which its allowance buys, the unmeasured evil in other forms which its allowance hinders — without attention to these, to present it in all "the nakedness of a metaphysical abstraction" to the mere sensibilities; and ask if it is not inhuman, and if they answer according to their kind, that it is, then to say that the problem is solved, and the right of disobedience is made clear — he must agree that this is not to exalt reason and conscience, but to outrage both. He must agree that although the supremacy of conscience is absolute whether the decision be right or wrong, that is, *according to the real qualities of things or not*, that there lies back of the actual conscience, and its actual decisions, the great anterior duty of having a conscience that *shall decide according to the real qualities of things;* that to this vast attainment some adequate knowledge of the real qualities of the things which

are to be subjected to its inspection is indispensable; that if the matter to be judged of is any thing so large, complex, and conventional as the duty of the citizen, or the public man, to the State; the duty of preserving or destroying the order of things in which we are born; the duty of executing or violating one of the provisions of organic law which the country, having a wide and clear view before and after, had deemed a needful instrumental means for the preservation of that order; that then it is not enough to relegate the citizen, or the public man, to a higher law, and an interior illumination, and leave him there. Such discourse is "as the stars, which give so little light because they are so high." He must agree that in such case, morality itself should go to school. There must be science as well as conscience, as old Fuller has said. She must herself learn of history; she must learn of politics; she must consult the builders of the State, the living and the dead, to know its value, its aspects in the long run, on happiness and morals; its dangers; the means of its preservation; the maxims and arts imperial of its glory. To fit her to be the mistress of civil life, he will agree, that she must come out for a space from the interior round of emotions, and subjective states and contemplations, and introspection, "cloistered, unexercised, unbreathed" — and, carrying with her nothing but her tenderness, her scrupulosity, and her love of truth, survey the objective realities of the State; ponder thoughtfully on the complications, and impediments, and antagonisms which make the noblest politics but an aspiring, an approximation, a compromise, a type, a shadow of good to come, "the buying of great blessings at great prices" — and there learn civil duty *secundum subjectam materiam*. "Add to your virtue knowledge" — or it is no virtue.

And now, is he who accuses Mr. Webster of "sinning against his own conscience," quite sure that he *knows*, that that conscience, — well instructed by profoundest political studies, and thoughts of the reason; well instructed by an appropriate moral institution sedulously applied, did not commend and approve his conduct to himself? Does he know, that he had not anxiously, and maturely studied the ethics of the Constitution, and *as a question of ethics*, but of ethics applied to a stupendous problem of practical life, and had not become sat-

isfied that they were right? Does he know that he had not done this, when his faculties were all at their best; and his motives under no suspicion? May not such an inquirer, for aught you can know, may not that great mind have verily and conscientiously thought that he had learned in that investigation many things? May he not have thought that he learned, that the duty of the inhabitants of the free States, in that day's extremity, to the republic, the duty at all events of statesmen, to the republic, is a little too large, and delicate, and difficult, to be all comprehended in the single emotion of compassion for one class of persons in the commonwealth, or in carrying out the single principle of abstract, and natural, and violent justice to one class? May he not have thought that he found there some stupendous exemplifications of what we read of, in books of casuistry, the "dialectics of conscience," as conflicts of duties; such things as the conflicts of the greater with the less; conflicts of the attainable with the visionary; conflicts of the real with the seeming; and may he not have been soothed to learn that the evil which he found in this part of the Constitution was the least of two; was unavoidable; was compensated; was justified; was commanded, as by a voice from the Mount, by a more exceeding and enduring good? May he not have thought that he had learned, that the grandest, most difficult, most pleasing to God, of the achievements of secular wisdom and philanthropy, is the building of a State; that of the first class of grandeur and difficulty, and acceptableness to Him, in this kind, was the building of our own: that unless everybody of consequence enough to be heard of in the age and generation of Washington, — unless that whole age and generation were in a conspiracy to cheat themselves, and history, and posterity, a certain policy of concession and forbearance of region to region, was indispensable to rear that master work of man; and that that same policy of concession and forbearance is as indispensable, more so, now, to afford a rational ground of hope for its preservation? May he not have thought that he had learned that the obligation, if such in any sense you may call it, of one State to allow itself to become an asylum for those flying from slavery into another State, was an obligation of benevolence, of humanity only, not of justice; that it must,

therefore, on ethical principles, be exercised under all the limitations which regulate and condition the benevolence of States; that therefore each is to exercise it in strict subordination to its own interests, estimated by a wise statesmanship, and a well-instructed public conscience; that benevolence itself, even its ministrations of mere good-will, is an affair of measure and of proportions; and must choose sometimes between the greater good, and the less; that if, to the highest degree, and widest diffusion of human happiness, a Union of States such as ours, some free, some not so, was necessary; and to such Union the Constitution was necessary; and to such a Constitution this clause was necessary, humanity itself prescribes it, and presides in it? May he not have thought that he learned that there are proposed to humanity in this world many fields of beneficent exertion; some larger, some smaller, some more, some less expensive and profitable to till; that among these it is always lawful, and often indispensable to make a choice; that sometimes, to acquire the right or the ability to labor in one, it is needful to covenant not to invade another; and that such covenant, in partial restraint, rather in reasonable direction of philanthropy, is good in the forum of conscience; and setting out with these very elementary maxims of practical morals, may he not have thought that he learned from the careful study of the facts of our history and opinions, that to acquire the power of advancing the dearest interests of man, through generations countless, by that unequalled security of peace and progress, the Union; the power of advancing the interest of each State, each region, each relation — the slave and the master; the power of subjecting a whole continent all astir, and on fire with the emulation of young republics; of subjecting it, through ages of household calm, to the sweet influences of Christianity, of culture, of the great, gentle, and sure reformer, time; that to enable us to do this, to enable us to grasp this boundless and ever-renewing harvest of philanthropy, it would have been a good bargain — that humanity herself would have approved it — to have bound ourselves never so much as to look across the line into the enclosure of Southern municipal slavery; certainly never to enter it; still less, still less, to

"Pluck its berries harsh and crude,
And with forced fingers rude
Shatter its leaves before the mellowing year."

Until the accuser who charges him, now that he is in his grave, with "having sinned against his conscience," will assert that the conscience of a public man may not, must not, be instructed by profound knowledge of the vast subject-matter with which public life is conversant — even as the conscience of the mariner may be and must be instructed by the knowledge of navigation; and that of the pilot by the knowledge of the depths and shallows of the coast; and that of the engineer of the boat and the train, by the knowledge of the capacities of his mechanism to achieve a proposed velocity; and will assert that he is certain that the consummate science of our great statesman, *was felt by himself to prescribe to his morality* another conduct than that which he adopted, and that he thus consciously outraged that "sense of duty which pursues us ever" — is he not inexcusable, whoever he is, that so judges another?

But it is time that this eulogy was spoken. My heart goes back into the coffin there with him, and I would pause. I went — it is a day or two since — alone, to see again the home which he so dearly loved, the chamber where he died, the grave in which they laid him — all habited as when

"His look drew audience still as night,
Or summer's noontide air,"

till the heavens be no more. Throughout that spacious and calm scene all things to the eye showed at first unchanged. The books in the library, the portraits, the table at which he wrote, the scientific culture of the land, the course of agricultural occupation, the coming-in of harvests, fruit of the seed his own hand had scattered, the animals and implements of husbandry, the trees planted by him in lines, in copses, in orchards, by thousands, the seat under the noble elm on which he used to sit to feel the southwest wind at evening, or hear the breathings of the sea, or the not less audible music of the starry heavens, all seemed at first unchanged. The sun of a bright day, from which, however, something of the fervors of mid-summer were wanting, fell temperately on them all, filled the air on all sides with the utterances of life, and gleamed on

the long line of ocean. Some of those whom on earth he loved best, still were there. The great mind still seemed to preside; the great presence to be with you; you might expect to hear again the rich and playful tones of the voice of the old hospitality. Yet a moment more, and all the scene took on the aspect of one great monument, inscribed with his name, and sacred to his memory. And such it shall be in all the future of America! The sensation of desolateness, and loneliness, and darkness, with which you see it now, will pass away; the sharp grief of love and friendship will become soothed; men will repair thither as they are wont to commemorate the great days of history; the same glance shall take in, and the same emotions shall greet and bless the Harbor of the Pilgrims, and the Tomb of Webster.

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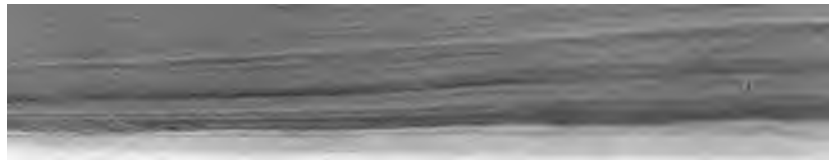

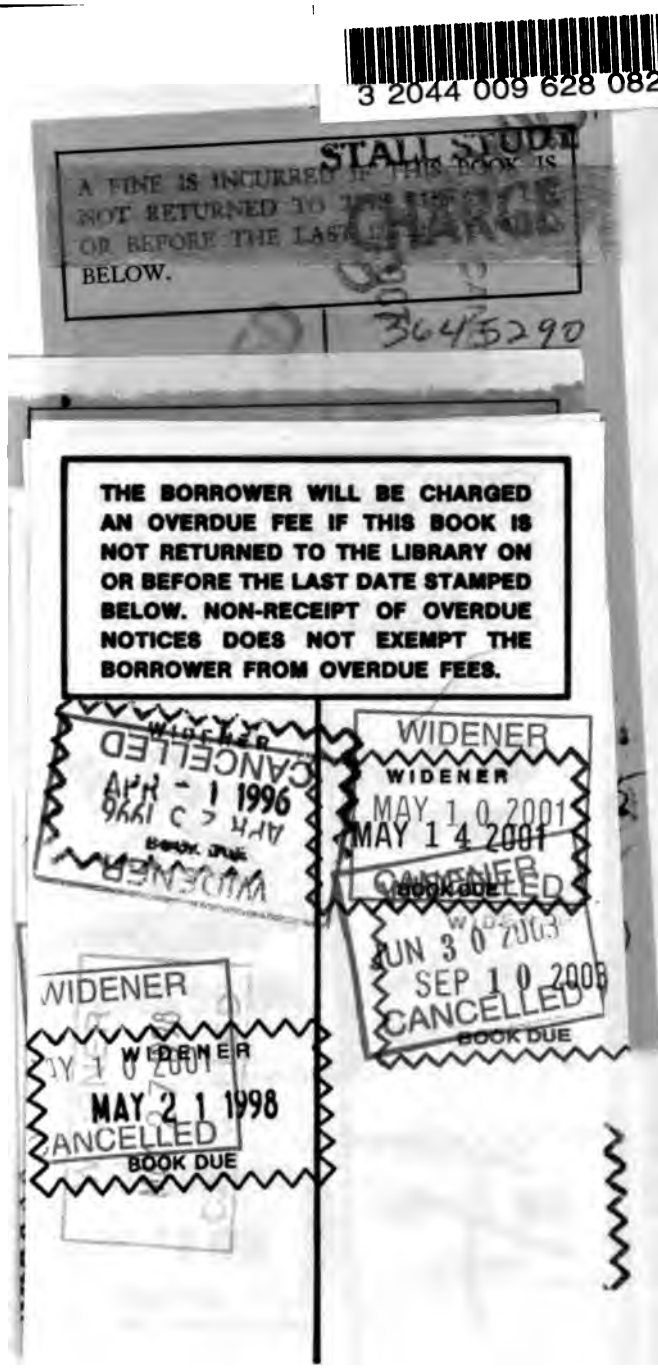
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